



# **ATTORNEY GENERAL OF TEXAS**

## **TAXATION DIVISION**

### **COMPTROLLER OF PUBLIC ACCOUNTS CASE LIST AND SUMMARY OF ISSUES**

**AUGUST 2010**



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## Franchise Tax

### ***Anadarko E&P Co., L.P. vs Combs, et al.***

Cause Number: D-1-GN-07003385 AG Case #: 072475932

Filed: 10/3/2007

Franchise Tax; Protest & Refund

Claim Amount Reporting Period

\$4,518,016.85 1999-2001 Texas Franchise Tax Report

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether the Comptroller correctly calculated the value of impairment of it's long-lived assets under the applicable principles for successful efforts accounting.

Status: Discovery in progress.

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### ***Anadarko OGC Company v. Combs, et al.***

Cause Number: D-1-GN-09-004036 AG Case #: 093165967

Filed: 11/25/2009

Franchise Tax; Refund

Claim Amount Reporting Period

\$2,019.43 \$5,387,747.55/\$1,013,096.12 (1997 through 2002)

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether the Comptroller correctly calculated the value of impairment of taxpayer's long-lived assets under the applicable principles for successful efforts accounting. Whether the taxpayer is entitled to use an alternate method of computing accumulated depreciation.

Status: Answer filed.

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***Anadarko Petroleum Corp. v. Combs, et al.***

Cause Number: D-1-GN-10-000501 AG Case #: 103181905

Filed: 2/17/2010

Franchise Tax; Protest

Claim Amount      Reporting Period

\$2,726,326.08      (plus principal & interest) 01/01/00 thru 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether the Comptroller correctly calculated the value of impairment of taxpayer's long-lived assets under the applicable principles for successful efforts accounting.

Status: Answer filed.

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***Anadarko Petroleum Corporation v. Combs, et al.***

Cause Number: D-1-GN-07-000670 AG Case #: 072441751

Filed: 3/6/2007

Franchise Tax; Refund

Claim Amount      Reporting Period

\$3,100,129.00      1995 - 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether Plaintiff may include proved reserves when computing impairment for long-lived assets. Whether Plaintiff is entitled to use an alternative GAAP method of computing accumulated depreciation and net pension liabilities. Whether Plaintiff is entitled to a franchise tax credit for tax paid on property used in manufacturing. Plaintiff requests that penalty and interest be waived.

Status: Discovery in progress.

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***Apache Corp. vs Compt., et al.***

Cause Number: D-1-GN-07003861 AG Case #: 072481518

Filed: 11/6/2007

Franchise Tax;

Claim Amount	Reporting Period
\$2,121,145.00	1998-1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether Plaintiff may make an impairment adjustment to its long-lived assets under the successful efforts accounting method and whether it may use a double declining balance method of depreciation.

Status: Answer filed.

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***AROC (Texas), Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000882 AG Case #: 072445745

Filed: 3/23/2007

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
\$241,435.17	01/01/01 - 12/31/02
\$114,245.78	01/01/01 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom Hance Scarborough Wright Woodward &  
Weisbart, L.L.P. / Austin

Issue: Whether debts of the Plaintiff are inter-company debts or equity infusions, causing the debts to be treated as equity and therefore taxable. Plaintiff claims its assets had been collateralized to a third party lender in return for funding.

Status: Discovery in progress.

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***Brink's Home Security, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004615 AG Case #: 062430392

Filed: 12/14/2006

Franchise Tax; Refund

Claim Amount	Reporting Period
\$91,372.00	2000

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Bernal, Jr., Gilbert J. Stahl, Bernal & Davies / Austin  
Sewell, David J.

Issue: Whether Plaintiff's gross receipts should include those receipts for services apportioned outside of the State. Plaintiff claims the Comptroller has misapplied the statutes and rules at issue and imposition of tax against Plaintiff is unconstitutional. Plaintiff claims violation of the Commerce Clause.

Status: Discovery in progress.

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***Central Telephone Company of Texas and United Telephone Company of Texas v. Rylander, et al.***

Cause Number: GN100332

AG Case #: 011409646

Filed: 2/1/2001

Franchise Tax; Protest

Claim Amount	Reporting Period
\$300,772.95	1988 - 1994
\$204,616.25	1988 - 1994

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether inclusion of access charges in Texas' gross receipts violates Comptroller rules



on franchise tax treatment of interstate telephone receipts. Whether inclusion of the charges violates equal protection.

Status: Discovery stayed pending appeal of Southwestern Bell case. Case set for a bench trial on 12/06/10.

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***Chevron Chemical Company, L.L.C., as Successor to Chevron Chemical Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000789 AG Case #: 062297486

Filed: 3/6/2006

Franchise Tax; Refund

Claim Amount      Reporting Period

\$559,579.09      1994 - 1995

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether the Comptroller correctly applied Plaintiff's business loss carry-forward on earned surplus during years when the earned surplus surtax was computed at zero.

Status: Case placed on Dismissal docket for 03/28/07; Motion to Retain granted 12/23/08.

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***Chevron USA Holdings, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-000748 AG Case #: 093110088

Filed: 3/6/2009

Franchise Tax; Refund

Claim Amount      Reporting Period

01/01/97 through 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene

OAG Taxation / Austin

*Opposing Counsel*

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Langenberg, Ray

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff may carry forward its impairment losses and exclude abandonment costs in computing its taxable capital.

Status: Answer filed. Discovery in progress.

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***Fairfield Industries, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001289 AG Case #: 093131944

Filed: 4/21/2009

Franchise Tax; Protest

Claim Amount	Reporting Period
\$2,557,040.47	2005-2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Mann, Christopher S.	Jones, Walker, Waechter, Poitevent, Carrere & Denegre, L.L.P / New Orleans, LA
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Issue: Whether the Comptroller incorrectly apportioned gross receipts from licensing seismic data.

Status: Answer filed.

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***Fairfield Industries, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-05-003289 AG Case #: 052214558

Filed: 9/13/2005

Franchise Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$1,107,256.04	2002 - 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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White, John D.	Jones, Walker, Waechter, Poitevent, Carrère & Denégre, L.L.P. / The Woodlands
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Issue: Whether Plaintiff's gross receipts should be treated as receipts from intangibles apportioned based on the location of the payor or the location of the alleged use of data. Whether the transfer of seismic data is a "license" or the transfer of an intangible for franchise

tax apportionment purposes. Plaintiff also requests that penalties be waived and recovery of attorneys' fees.

Status: Order consolidating with Fairfield Industries, Inc. v. Compt., et al., Cause No. D-1-GN-06-000797 entered 07/11/07. Inactive. Pending disposition of TGS-NOPEC case, Cause #D-1-GN-05-00637.

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***Fairfield Industries, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000797 AG Case #: 062296884

Filed: 3/7/2006

Franchise Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$769,839.19	1999 - 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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White, John D.	Jones, Walker, Waechter, Poitevent, Carrère & Denégre, L.L.P. / The Woodlands
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Issue: Whether Plaintiff's gross receipts should be treated as receipts from intangibles apportioned based on the location of the payor or the location of the alleged use of data. Whether the transfer of seismic data is a "license" or the transfer of an intangible for franchise tax apportionment purposes. Plaintiff also requests that penalties be waived and recovery of attorneys' fees.

Status: Case consolidated into Fairfield Industries, Inc. v. Strayhorn, et al., Cause #GN503289.

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***Galland Henning Nopak, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001409 AG Case #: 062312129

Filed: 4/21/2006

#03-09-00347-CV

#07-09-00250-CV

Franchise Tax; Protest

Claim Amount	Reporting Period
\$16,751.35	1995 - 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Davidson, William C.

Chamberlain & McHaney / Austin

Issue: Whether Plaintiff had sufficient nexus in Texas to be assessed taxes under both the taxable capital component and the earned surplus component of the Texas Franchise Tax.

Status: Summary Judgment hearing reset by agreement for 05/28/09. The trial court granted Defendants' Plea to the Jurisdiction and Motion for Summary Judgment and denied Defendants' No-evidence Motion for Summary Judgment and Plaintiff's Motion for Summary Judgment. Plaintiff's Notice of Appeal filed 06/18/09. Case transferred to 7th COA on 07/20/09. Clerk's Record filed 08/07/09. Appellant's brief due 09/08/09. Appellant's Motion for Extension of Time to File Brief filed and granted 09/03/09. Appellant's Second Motion for Extension of Time to File Brief filed and granted 10/05/09. Supplemental Clerk's Record filed 10/15/09. Appellant's brief filed 11/20/09. Appellee's brief filed 01/21/10. Case submitted on briefs on 05/21/10. Memorandum Opinion issued 07/14/10, affirming the judgment of the trial court.

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***Gulf Chemical & Metallurgical Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002313 AG Case #: 082518937

Filed: 7/2/2008

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
\$262,066.00	2001 through 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether tax credits were properly applied. Whether gross receipts were properly determined for fee/credit transactions. Whether the officer add-back provisions of the franchise tax are unconstitutional. Whether penalty should be waived.

Status: Answer filed.

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***Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004636 AG Case #: 062430582

Filed: 12/15/2006

Franchise Tax; Refund

Claim Amount	Reporting Period
\$245,571.02	1997 - 2000

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: How should processing fees and metals credit be calculated for franchise tax apportionment purposes. Whether Plaintiff is entitled to a refund resulting from the elimination of the addback for officer and director compensation.

Status: Discovery in progress.

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***Lone Star Industries, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-000065 AG Case #: 103172730

Filed: 1/7/2010

Franchise Tax; Protest & Refund

Claim Amount      Reporting Period

\$428,568.50      Report years 1999-2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether taxpayer's taxable capital should be based on its historical cost without regard to applicable push-down adjustments.

Status: Discovery in progress.

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***Millennium Inorganic Chemicals, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000655 AG Case #: 062295894

Filed: 2/23/2006

Franchise Tax; Protest

Claim Amount      Reporting Period

\$2,862,261.31      1996 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Hagenswold, R. Eric

Issue: Whether Plaintiff may deduct from its surplus the pre-acquisition negative retained earnings of a subsidiary's subsidiary. Whether Plaintiff may write-down subsidiary's investments in subsidiaries. Whether the Comptroller correctly determined Plaintiff's original cost basis in its subsidiary.

Status: Discovery in progress.

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***Papa John's USA, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002376 AG Case #: 082519620

Filed: 7/7/2008

Franchise Tax; Refund

Claim Amount	Reporting Period
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\$48,842.33	2001-2004
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Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether the officer add-back provision is unconstitutional.

Status: Notice of Nonsuit filed 12/09/08.

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***Shell Trading Services Co. v. Combs, et al.***

Cause Number: D-1-GN-09-003859 AG Case #: 093163046

Filed: 11/9/2009

Franchise Tax; Refund

Claim Amount	Reporting Period
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\$1,416,829.00	2002-2003
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Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene                      OAG Taxation / Austin

*Opposing Counsel*

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Schmauch, Jason Michael      Houston

Issue: Whether payments made to certain individuals were payments subject to the officer and director add back provision, notwithstanding taxpayer's contention that it was reimbursed for such salary payments by a third party.

Status: Answer filed.

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***Southwestern Bell Telephone Company v. Rylander, et al.***

Cause Number: GN204559

AG Case #: 031730666

Filed: 12/20/2002

#03-07-00142-CV

#07-07-00172-CV

#09-0128

Franchise Tax; Protest

Claim Amount      Reporting Period

\$25,163,579.92      1996 - 1999; 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether local loop access charges are Texas receipts for franchise tax purposes.  
Whether treating the revenues as Texas receipts violates the Comptroller's Rule on interstate calls and the Due Process, Equal Protection and Commerce Clauses of the Constitution.  
Whether other charges related to message services are Texas receipts.

Status: First Amended Original Petition adding 2001 final report filed. Cross-MSJ hearing held 02/14/07. On 02/16/07 Defendants' MSJ granted; Plaintiff's denied. Notice of Appeal filed 03/08/07. Clerk's Record filed 03/21/07. Appellant's brief filed 04/20/07. Case transferred to Seventh Court of Appeals 05/01/07. Appellee's amended brief filed 06/27/07. Appellants' reply brief filed 07/23/07. Appellees' Pre-submission filed 05/27/08. Case submitted on oral argument to the Amarillo COA sitting in Austin on 06/09/08. Opinion issued affirming trial court's judgment 10/28/08. Appellant's Motion for Extension of Time to File Motion for

Rehearing filed 11/07/08; granted 11/12/08. Motion for Rehearing filed 11/26/08; overruled 12/30/08. Southwestern Bell's Petition for Review filed in the Texas Supreme Court on 02/12/09. Waiver of response filed 03/03/09. Response to Petition for Review requested 04/10/09. Motion for Extension of Time to File Response filed 04/16/09; granted 04/17/09. Response filed 06/10/09. Briefing on the merits requested 08/21/09. Petitioner's brief on the merits filed 10/21/09. Respondent's brief on the merits filed 01/15/10. Petitioner's Reply Brief filed 03/04/10.

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***Taco Bell Corp. v. Combs, et al.***

Cause Number: D-1-GN-09-003637 AG Case #: 093159101

Filed: 10/21/2009

Franchise Tax; Protest

Claim Amount	Reporting Period
\$2,273,294.00	1999 through 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Gilliland, David H.	Clark, Thomas & Winters / Austin
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Issue: Whether the Taxpayer, a foreign corporation, conducted business within Texas during the audit period. Whether the activities of a franchisee, performed on behalf of the Taxpayer, would be sufficient to establish a physical presence.

Status: Answer filed.

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***Texaco, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001386 AG Case #: 093123461

Filed: 4/30/2009

Franchise Tax; Refund

Claim Amount	Reporting Period
\$1,136,124.00	01/01/1992 through 12/31/1996

Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene	OAG Taxation / Austin
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*Opposing Counsel*

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Langenberg, Ray	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Plaintiff seeks a reduction in franchise tax for various reasons including abandonment



costs and impairment of assets, intercompany expense reimbursements, alternative depreciation, and manufacturing credits.

Status: Discovery in progress.

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***TGS-NOPEC Geophysical Company v. Strayhorn, et al.***

Cause Number: GN500637

AG Case #: 052114220

Filed: 3/1/2005

#03-07-00640-CV

#08-1056

Franchise Tax; Protest

Claim Amount	Reporting Period
\$390,471.26	1997 - 2000
\$1,422,008.76	2001 - 2003

Counsel Associated With This Case:

*Assistant Attorney General*

Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

McBride, James T.

Jackson Walker L.L.P. / Houston

Issue: Whether Plaintiff's gross receipts should be treated as receipts from intangibles apportioned based on the location of the payer or the location of the alleged use of data. Whether the transfer of seismic data is a "license" or the transfer of an intangible for franchise tax apportionment purposes. Plaintiff also seeks attorneys' fees.

Status: Hearing on Cross-Motions for Summary Judgment heard on 07/16/07. Final Summary Judgment signed on 10/15/07. The court granted Summary Judgment to Defendants on the apportionment issue and granted Summary Judgment to Plaintiff on the penalty and interest issue. Defendants'/Cross-Appellants' Notice of Appeal filed 11/15/07. Court Reporter's Record due 12/14/07. Notice of Late Record sent 01/15/08. Clerk's record filed 01/17/08. Appellant TGS and Cross-Appellant Comptroller filed a Joint Motion for Extension of Time to File Briefs 02/04/08; granted 02/07/08. Cross-Appellant's brief filed 04/18/08; Oral Argument requested. Appellant's brief filed 04/21/08; oral argument not requested. Appellee's brief filed 05/22/08; oral argument requested. Cross-Appellee's brief filed 05/20/08; oral argument not requested. Oral Argument denied 05/30/08. Appellants' reply brief filed 06/11/08. Trial court's judgment affirmed on 08/15/08. Appellee's Motion for Rehearing filed 09/02/08. Appellant's Motion for Rehearing filed 10/13/08. Appellants' and Appellees' Motion for Rehearing overruled 11/03/08. Petitioner's Unopposed Motion for Extension of Time to File Petition for Review in the Supreme Court filed and granted 12/17/08. Petition for Review filed 01/21/09. Respondent's Response to Petition for Review waived 02/18/09. The International Association of Geophysical Contractors submitted an amicus brief in support of TGS on 03/13/09. Response to Petition for Review requested on 03/27/09. Response to

Petition filed 05/27/09. Petitioner's Reply filed 06/11/09. Briefing on the merits requested 06/26/09. Petitioner's Brief on The Merits filed 08/26/09. Petitioner's Amended Brief filed 08/27/09. Respondent's Motion for Extension of Time to File Brief filed 10/23/09; granted 10/27/09. Respondent's briefing on the merits filed 11/20/09. Petitioner's reply brief filed 12/14/09. Amicus letter filed 12/31/09. Petition for Review granted 03/12/10. Case submitted on oral argument on 04/15/10. Petitioner's post-submission brief filed 06/09/10. Amicus letter received 08/06/10.

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***TLH Enterprises, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-002768 AG Case #: 103213674

Filed: 8/6/2010

Franchise Tax; Protest, UDJA, APA

Claim Amount      Reporting Period

\$70,339.50      Report year 2010

Issue: Whether Plaintiff's rent-to-own business qualifies for the 0.5% rate under §171.002(b) and §171.0001(12).

Status: Answer filed.

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***Viacom International, Inc. v. Strayhorn, et al.***

Cause Number: GN402433

AG Case #: 041999269

Filed: 7/30/2004

Franchise Tax; Protest

Claim Amount      Reporting Period

\$754,178.16      1997 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H.

Clark, Thomas & Winters / Austin

Issue: Whether revenue received from third-party cable television system operators is revenue earned from licensing or from the service of producing, creating, editing, packaging and transmitting 24-hour-per-day network programming performed out-of-state. Should revenue from providing these services be considered Texas receipts for franchise tax purposes. Plaintiff also claims violation of Due Process and the Commerce Clause.

Status: Discovery in progress.

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## Sales Tax

### ***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: GN403369

AG Case #: 042046367

Filed: 10/8/2004

#03-08-00212-CV

#10-0509

Sales Tax; Refund

Claim Amount	Reporting Period
\$299,328.98	04/01/93 - 09/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether the purchase of bookkeeping software installed on computers located out-of-state and subsequently shipped to stores in-state qualifies for the sale for resale exemption.

Status: Hearing on cross-motions for summary judgment and defendants' plea to the jurisdiction held 02/05/08. Judgment granted for the State on 03/24/08. Plaintiff filed Notice of Appeal 04/07/08. Clerk's Record filed 06/19/08. Appellant's brief filed 07/21/08. Appellees' brief filed 08/20/08. Appellant's Reply Brief filed 09/16/08; accepted for oral argument. Appellant's Motion to Postpone Oral Argument filed 01/12/09. Submission cancelled 01/13/09. Submitted on oral argument on 04/08/09. Opinion issued 08/31/09, reversing the summary judgment in favor of the State, rendering judgment that 7-Eleven is entitled to a partial sales-tax refund with respect to the software that it transferred to its franchise stores, and remanding to the trial court the portion of the cause pertaining to software that was delivered to its out-of-state company stores. The State filed a Motion for Rehearing on 10/06/09 and re-filed its Motion for Rehearing on 11/02/09. Response requested 11/18/09. Appellant's Response to the Motion for Rehearing filed 12/03/09. Substitute Opinion issued 04/22/10, reversing the Court of Appeals' 08/31/09 decision, remanding both issues to the trial court. Appellant's Motion for Rehearing filed 05/07/10; overruled 05/19/10. Petition for Review filed in the Texas Supreme Court on 07/02/10; denied 09/03/10.

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### ***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002424 AG Case #: 062380290

Filed: 6/30/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$615,638.45	04/01/93 - 09/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W. Langenberg, Ray	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Plaintiff purchased non-taxable programming services rather than taxable software.

Status: Inactive.

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***Aetna Life Ins. Co. v. Compt., et al.***

Cause Number: D-1-GN-08-002422 AG Case #: 082519794

Filed: 7/10/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,228,278.73	02/01/97 thru 01/31/01 & 02/01/01 thru 6/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W. Osterloh, Curtis J.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Aetna received data processing services. If so, whether services were properly allocated to Texas.

Status: Discovery in progress.

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***Air Liquide America, L.P. v. Compt., et al.***

Cause Number: D-1-GN-09-000193 AG Case #: 093101491

Filed: 1/21/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$2,769,627.00	01/01/98 through 12/31/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to credit interest on the gross amount of credits rather than the net amount.

Status: Answer filed.

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***Alcon Research, Ltd., et al. v. Combs, et al.***

Cause Number: D-1-GN-10-000065    AG Case #: 103172755

Filed: 1/8/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$2,574,603.00	07/01/99 thru 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether taxpayer's amended returns were in compliance with, and subject to, a percentage-based reporting agreement.

Status: Discovery in progress. Trial set for 11/01/10.

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***Allegiance Telecom of Texas, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000056    AG Case #: 062269030

Filed: 1/6/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,660,546.29	10/01/97 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Hagenswold, R. Eric

Issue: Whether equipment purchased by Plaintiff is exempt from sales tax as tangible personal property used in manufacturing and processing. Whether freight charges are exempt from sales tax under the manufacturing exemption.

Status: Answer filed. Court sent Notice to Dismiss for Want of Prosecution on 01/30/08.

Unopposed Motion to Reinstate filed 09/22/08. Trial set for 12/06/10.

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***Alumax Mill Products, Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000165 AG Case #: 072435746

Filed: 1/22/2007

Sales Tax; Refund

Claim Amount      Reporting Period

\$78,359.28      07/01/98 - 06/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether industrial solid waste removal is exempt as a real property service. Whether Plaintiff's purchases of repair and replacement parts for and repair services performed on rolling stock equipment are exempt from sales and use tax as services performed on exempt tangible personal property.

Status: Answer filed. Agreed Scheduling Order filed 03/04/09.

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***Anh Thai Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-003086 AG Case #: 082526096

Filed: 8/26/2008

Sales Tax; Refund

Claim Amount      Reporting Period  
\$158,443.19      April 1, 2001 through Dec. 31, 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.      OAG Taxation / Austin

*Opposing Counsel*

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Buck, E. Rhett      Houston

Issue: Whether percentages of sales were properly computed. Whether Plaintiff had sufficient records to perform audit without relying on standards of AP92.

Status: Answer filed. Plaintiff's Supplemental Pleading for Tax Refund filed 09/25/08.  
Plaintiff's Oath of Inability to Pay filed 09/19/08.

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***Apache Corp. v. Combs, et al.***

Cause Number: D-1-GN-09-004344      AG Case #: 103170098

Filed: 12/21/2009

Sales and use Tax; Refund

Claim Amount      Reporting Period  
\$7,080,790.79      Jan. 1, 1995 through Dec. 31, 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Plaintiff's refund suit raises multiple exemptions to the application of the sales and use tax to its operations. Claims include manufacturing exemptions, sale for resale, and services performed on exempt TPP.

Status: Answer filed.

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***Apache Corp. vs. Compt., et al.***

Cause Number: D-1-GN-08-001989      AG Case #: 082513300

Filed: 6/6/2008

Sales Tax; Refund

Claim Amount	Reporting Period
\$5,894,089.15	1/01/2003 through 06/30/2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether Plaintiff's property qualifies for exemption under various provisions of section 151.318. Whether Plaintiff paid tax on non-taxable services. Whether some property was used for exempt environmental work. Whether sales prices were correctly determined.

Status: Answer filed.

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***Aramis Services, Inc. v. Rylander, et al.***

Cause Number: 0000384

AG Case #: 001273051

Filed: 2/11/2000

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$281,676.36	04/01/94 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived.

Status: Court sent Notice of DWOP for 08/23/02. Plaintiff filed Motion to Retain; granted 02/27/03. Court DWOP the case 06/15/05. Plaintiff filed Motion to Reinstate 07/12/05. Defendants filed first amended answer, plea to the jurisdiction, special exceptions and motion for attorneys' fees 11/17/06.



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***Aramis Services, Inc. v. Sharp, et al.***

Cause Number: 98-03527

AG Case #: 98930349

Filed: 4/3/1998

Sales Tax; Protest &amp; Declaratory Judgment

Claim Amount	Reporting Period
\$291,196.00	04/01/90 - 03/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Court sent Notice of DWOP for 12/20/00. Plaintiff filed Motion to Retain 12/15/00; granted 01/25/01. Court sent DWOP notice for 07/22/02. Plaintiff filed Motion to Retain 07/15/02; granted 01/16/03. Defendants filed Motion to Dismiss 05/11/04; set for 05/20/04. Hearing passed by agreement.

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***AT&T Corporation; Teleport Communications of Houston, Inc.; TCG of Dallas, Inc.; AT&T Network Procurement, L.P.; AT&T Communications of Texas, L.P.; and AT&T Communications of the Southwest, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002080 AG Case #: 062365986

Filed: 6/7/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$21,934,496.00	01/01/95 - 07/31/04
\$1,484,356.00	01/01/00 - 07/31/04
\$1,391,152.00	01/01/00 - 07/31/04
\$22,827,857.00	01/01/00 - 07/31/04
\$4,435,506.00	01/01/99 - 07/31/04
\$4,435,506.00	01/01/00 - 07/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether purchases of electricity used in a manufacturing process are exempt from sales tax. Whether the manufacturing process used by Plaintiff results in a physical change to tangible personal property being resold. Whether electricity purchased and used to process tangible personal property for sale as tangible personal property is exempt from sales tax under the manufacturing and processing exemption. Whether Plaintiffs' purchases and/or leases of tangible personal property directly used or consumed in or during a manufacturing process are exempt from sales tax.

Status: Motion to retain filed and granted. Trial set for 12/06/10.

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***Austin Engineering Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000565 AG Case #: 072440159  
#03-10-00323-CV

Filed: 2/23/2007

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$53,654.00	01/01/00 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Mondrik, Christina A.

Mondrik & Associates / Austin

Issue: Whether fees that Plaintiff received for erosion control services, environmental construction services and utility construction services are exempt from sales and use tax. Whether services performed by Plaintiff to exempt entities are exempt from sales and use tax. Whether Plaintiff's transactions with its customers qualify as non-taxable or exempt services, or included the sale of tangible personal property, thus making certain items taxable. Plaintiff claims the Comptroller erroneously assessed tax on purchases which were non-taxable or exempt, or on which the sales and use tax had already been paid. Plaintiff claims violation of equal protection, equal and uniform taxation, and the Commerce clause.

Status: Discovery in progress. Cross-Motions for Summary Judgment heard on 04/27/10. Final Judgment entered 05/12/10, granting Defendants' Cross-Motion. Plaintiff's Notice of

Appeal filed 06/07/10. Appellant's brief due 10/01/10.

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***Awad, Mike v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003807 AG Case #: 062419668

Filed: 10/6/2006

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$196,853.60	07/01/00 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Roberts, William A.	The Roberts Law Firm / Dallas
Coleman, Kyle	

Issue: Whether Plaintiff's business products are exempt as "sale for resale" items or taxable. Whether the Comptroller erred by misapplying burden of proof and whether the requirement is constitutional. Whether Tax Code §112.108 is constitutional. Plaintiff claims violation of due process, that all penalties and interest be waived, and attorneys' fees.

Status: Jurisdictional plea, motion to dismiss and counterclaim filed.

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***BBB Trading Co. v. State of Texas, et al.***

Cause Number: C-1-CV-08-011446 AG Case #: 082539305

Filed: 10/28/2008

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$426,282.46	June 01, 2003 to Nov. 30, 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Leeper, David P.	El Paso
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Issue: Plaintiff claims that the Comptroller should grant insolvency relief. Plaintiff seeks injunctive relief, exemplary damages, and attorney's fees.

Status: Case transferred to the Bankruptcy & Collections Division, to AAG David Randell.

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***Bell Bottom Foundation Company v. Rylander, et al.***

Cause Number: 99-01092

AG Case #: 991112186

Filed: 1/29/1999

Sales Tax; Protest

Claim Amount	Reporting Period
\$81,571.73	01/01/91 - 12/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Trickey, Timothy M.	The Trickey Law Firm / Austin
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Issue: Whether taxpayer's sub-contract was a separated contract since the general contractor's construction contract was separated.

Status: Case dismissed for want of prosecution 06/17/03. Motion to Reinstate granted.  
Negotiating an agreed scheduling order. Motion to Retain filed 11/29/06; granted 03/27/07.

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***Bell Helicopter Textron, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002279

AG Case #: 082516972

Filed: 6/27/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,438,127.83	01/01/01 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Plaintiff is entitled to interest on the gross amount of credit in a managed audit. Whether Plaintiff is entitled to the manufacturing exemption for property sold under the applicable FAR's even though the government may not take possession of the manufactured property. Whether Plaintiff's gas and electricity are used in manufacturing.

Status: Court ruled for Comptroller after 08/02/10 trial.

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***BHR Texas L.P. v. Combs, et al.***

Cause Number: D-1-GN-09-003056

AG Case #: 093150829

Filed: 9/10/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$19,590.14	05/01/2000 through 07/31/2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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Issue: Whether certain amenity and consumable items such as shampoo, stationery & similar items provided to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed.

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***Black Thirst, LLC v. Combs, et al.***

Cause Number: D-1-GN-09-001389 AG Case #: 093123933

Filed: 4/30/2009

Sales and use Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$281,499.71	

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Hopkins, Mark D.	Savrick, Schumann, Johnson, McGarr, Kaminski & Shirley / Austin
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Issue: Whether Plaintiff owes tax as a successor to a business with outstanding tax liabilities.

Status: Answer filed.

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***Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.***

Cause Number: GN401955

AG Case #: 041988023

Filed: 6/21/2004

#03-09-00617-CV

Sales Tax; Refund

Claim Amount	Reporting Period
\$3,750,000.00	12/01/88 - 05/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Order consolidating with Cause #D-1-GN-06-000787 signed 05/14/07. Summary Judgment hearing set for 01/22/08. Partial Summary Judgment for Blue Cross granted 02/01/08. Trial held 09/02/08. Evidence reopened. Letter ruling in favor of Blue Cross issued 07/16/09. Judgment for Plaintiff on 07/31/09. Notice of Appeal filed 10/28/09. Reporter's Record filed 11/24/09. Clerk's Record filed 01/05/10. Appellant's brief filed 03/08/10. Appellee's Motion for Extension of Time to File Brief filed 03/24/10; granted 04/01/10. Appellee's brief filed 05/07/10. Appellant's Motion for Extension of Time to File Reply Brief filed and granted 05/20/10. Reply brief filed 06/28/10. Case set for submission on oral argument on 09/29/10 at 9:00 a.m.

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***Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000787 AG Case #: 062296876

Filed: 3/6/2006

Sales Tax; Refund

Claim Amount      Reporting Period

\$3,029,344.00      06/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption

recognized in Day & Zimmerman v. Calvert.

Status: Order consolidating into Cause # GN401955 signed 05/14/07.

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***Boat Town, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-001659 AG Case #: 103199972

Filed: 5/24/2010

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$78,915.79	01/01/2000 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Dolezal, Trey L. Kasling, Hemphill, Dolezal & Atwell, L.L.P. /  
Austin

Guerra, Stephanie H.

Issue: Whether plaintiff's purchase of a business causes it to become a successor to the seller's tax liability. Plaintiff also seeks recovery of attorney's fees.

Status: Answer filed.

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***Boeing North America, Inc. v. Strayhorn, et al.***

Cause Number: GN304372

AG Case #: 031884471

Filed: 11/10/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$500,000.00	01/01/95 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Plaintiff claims a sale for resale exemption on items resold to the federal government.

Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Answer filed.

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***BP America Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004207 AG Case #: 083091371

Filed: 11/20/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
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\$10,457,007.25	01/01/97 - 12/31/96 and 01/01/97 - 06/30/00
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Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Plaintiff brings about fifty different issues on sales and use tax in connection with its production and refining operations. Claims include casualty losses, manufacturing exemptions, tax credits, and various service issues.

Status: Answer filed.

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***BP America, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-000049 AG Case #: 103172706

Filed: 1/6/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
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\$1,684,875.00	07/01/00 through 12/31/01
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Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Plaintiff brings approximately twenty-five different sales and use tax refund issues in connection with its production and refining operations. Claims include waste removal,



environmental services, credit interest, and various manufacturing exemption claims.

Status: Answer filed.

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***Broadwing Corporation v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003733 AG Case #: 062412879

Filed: 9/29/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$217,355.92	01/01/99 - 04/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Osterloh, Curtis J.

Issue: Whether finish-out work or improvements to real property is subject to tax when a part of the structure and leased space had been previously used and occupied.

Status: Discovery in progress.

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***Burns, Kevin D. v. Strayhorn, et al.***

Cause Number: GN504208 AG Case #: 052253457

Filed: 11/28/2005

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,300,000.00	01/01/96 - 10/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether the transfer of certain tangible personal property from customers to Plaintiff to be leased back to customers with a purchase option are non-taxable financing transactions. Whether sales taxes previously submitted are binding within Plaintiff's bankruptcy plan. Plaintiff claims violation of equal and uniform taxation, and also seeks attorneys' fees.

Status: Inactive.

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***C & T Stone Company v. Rylander, et al.***

Cause Number: GN002428

AG Case #: 001344233

Filed: 8/18/2000

Sales Tax; Protest

Claim Amount	Reporting Period
\$207,454.40	04/01/94 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Peckham, William T.	Attorney at Law / Austin
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Issue: Whether Plaintiff owes sales tax on its sales of limestone to third parties under §151.311(a). Whether Plaintiff detrimentally relied on advice from the Comptroller's Office. Whether exemption certificates covered some sales that were assessed tax. Whether Plaintiff is entitled to the manufacturing exemption under §151.318(g). Whether penalty and interest should be waived.

Status: Inactive.

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***C.C. Carlton Industries, Ltd. v. Combs, et al.***

Cause Number: D-1-GN-08-003460 AG Case #: 082530270

Filed: 9/22/2008

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$247,570.73	01/01/00 through 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Holcomb, Donald W.	Knolle, Holcomb, Kothmann & Callahan / Austin
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Issue: Whether Plaintiff owes tax on construction and electrical work.

Status: Discovery in progress.

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***CallSource, Inc. v. Compt., et al.***

Cause Number: D-1-GN-09-000188 AG Case #: 093101202

Filed: 1/21/2009

Sales Tax; Protest

Claim Amount Reporting Period

\$244,033.70 10/01/03 through 05/31/07

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Wahby, Peter S.

Greenberg Traurig, LLP / Dallas

Issue: Whether customer information tracking services (associated w/marketing campaigns) are taxable as information services or exempt as proprietary information. Whether other, non-taxable, information services were included in lump-sum customer invoices. Preemption under the Internet Tax Freedom Act. Plaintiff also asserts multi-state benefit & lack of nexus.

Status: Answer & Request for Disclosure filed 02/12/09. Discovery in progress. Plaintiff's MSJ passed by agreement. Trial previously set for 11/15/10 has been passed by agreement.

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***Capitol Aggregates, Ltd. v. Compt., et al.***

Cause Number: D-1-GN-08-003096 AG Case #: 082526229

Filed: 8/26/2008

Sales and use Tax; Refund

Claim Amount Reporting Period

\$563,053.71 March 1, 1999 through Dec. 31, 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Osterloh, Curtis J.

Issue: Whether Plaintiff's coal mill qualifies for the manufacturing exemption. Whether real property repair and other services are exempt transactions among affiliated entities.

Status: Answer filed.

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***Carino's Italian Kitchen, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-000524 AG Case #: 103179644

Filed: 2/18/2010

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$97,924.98	07/01/02 through 03/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether certain cleaning supplies used in food processing areas qualify for the manufacturing exemption. Whether the Comptroller used the proper calculation method for interest applied to overpayments.

Status: Answer filed.

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***Cashiola, James v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004629 AG Case #: 072434863

Filed: 12/15/2006

Sales Tax; Administrative Appeal

Claim Amount	Reporting Period
\$1,112,768.76	11/21/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Grimsinger, William O.	Chamberlain, Hrdlicka, White, Williams & Martin / Houston
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Issue: Whether Plaintiff owes sales tax under successor liability. Plaintiff claims the Comptroller audited the acquired company for the same telecommunications consulting services and previously found no sales tax liability due. Plaintiff claims debts were created without his knowledge and the exercise of reasonable diligence would not have revealed the intention to create a tax debt.

Status: No Evidence Motion filed by Plaintiff. Consideration on replying answer.

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***CEC Entertainment, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004594 AG Case #: 062430368

Filed: 12/12/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$244,808.38	01/01/02 - 09/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough Wright Woodward & Weisbart, L.L.P. / Austin
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Issue: Plaintiff claims that paying sales tax on prizes awarded to successful contestants of coin-operated and non-coin operated games and on the admission price of non-coin operated games, in addition to annual occupational taxes, would be double taxation. Plaintiff claims violation of equal and uniform taxation, and due process.

Status: Inactive.

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***Centreport Partners, L.P. v. Combs, et al.***

Cause Number: D-1-GN-07-000152 AG Case #: 072435795

Filed: 1/19/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$14,095.15	07/01/00 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed. Court sent Notice of DWOP on 08/21/09. Plaintiff's Motion to Retain filed 08/19/09; granted 09/23/09.

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***Chapal Zenray, Inc. v. Rylander, et al.***

Cause Number: GN204506

AG Case #: 031729197

Filed: 12/16/2002

Sales Tax; Protest

Claim Amount	Reporting Period
\$210,943.91	01/01/94 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Osterloh, Curtis J.	

Issue: Whether items such as boxes, foam pads and twist ties are not subject to tax pursuant to Tex. Tax Code §151.011 (f)(2) and Rule 3.346 (c)(1)(c) when purchased by a person who uses the items to secure jewelry for shipment out-of-state.

Status: Plaintiff's Partial Motion for Summary Judgment granted. Final Judgment entered 08/18/10.

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***Chevron USA Holdings v. Combs, et al.***

Cause Number: D-1-GN-10-000084 AG Case #: 103172664

Filed: 1/8/2010

Sales and use Tax; Protest & Refund

Claim Amount	Reporting Period
\$7,666,889.93	01/01/91 through 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Plaintiff's suit raises approximately 30 sales and use tax issues in relation to its oil and gas production operations. Claims include environmental services, credit interest, new construction, and various manufacturing exemption claims.

Status: Answer filed.

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***Chevron USA, Inc. v. Strayhorn, et al.***

Cause Number: GN403978

AG Case #: 042071324

Filed: 12/6/2004

#03-07-00127-CV

Sales Tax; Refund

Claim Amount	Reporting Period
\$439,225.00	01/01/93 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether charges of contractors for erecting, maintaining and dismantling scaffolding are exempt from sales and use tax as a non-taxable service, or taxable as rental of tangible personal property.

Status: Discovery in progress. Hearing on cross-motions for summary judgment held 06/28/06. Chevron's motion for partial summary judgment granted; Comptroller's motion denied. Hearing for judgment held 01/31/07. Chevron's motion to sever granted; final judgment entered. The State filed a Notice of Appeal on 02/28/07, arguing that the trial court erred in denying its plea to the jurisdiction and in granting Chevron's motion for partial summary judgment. Clerk's Record filed 03/20/07. Court Reporter's Record filed 03/29/07. Appellants' brief filed 05/17/07; Oral Argument requested. Appellee's brief filed 06/15/07; Oral Argument requested. Appellants' reply brief filed 07/23/07. Case submitted on Oral Argument on 11/28/07. Appellant's Response filed 06/10/09. Appellant's Motion for Leave filed 06/16/09; granted 06/23/09. Opinion issued 02/05/10, reversing and rendering judgment for the Comptroller on both issues. Appellee's Motion for Rehearing filed 02/22/10; denied 04/09/10. Opinion issued 02/05/10 was withdrawn and a substitute opinion was issued on 04/09/10. Appellee's Second Motion for Rehearing filed 04/28/10; granted 05/04/10. Appellant's Response filed 05/12/10. Appellee's Reply to Response filed 05/13/10; overruled 08/27/10.

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***Church & Dwight Company, Inc. v. Rylander, et al.***

Cause Number: GN000525

AG Case #: 001258201

Filed: 1/12/2000

Sales Tax; Refund

Claim Amount	Reporting Period
\$64,868.50	10/01/90 - 12/31/93

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Benesh, W. Stephen Bracewell & Patterson / Austin  
Sampson, Jr., Phillip L.

Issue: Whether Plaintiff owes use tax on promotional materials shipped from out-of-state. Whether the Comptroller's imposition of use tax is invalid because Plaintiff made no use of the materials in Texas. Whether Rule 3.346(b)(3)(A) is invalid. Whether the tax violates the Commerce and Due Process Clauses of the United States Constitution.

Status: Plaintiff waiting for outcome of Estee Lauder Services, Inc. cases. Case dismissed for want of prosecution 06/15/05. Case re-opened. Reinstated by bill of review 11/22/05.

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***Cingular Wireless of Austin, LP, formerly known as GTE Mobilnet of Austin, LP; GTE Mobilnet of South Texas, LP; GTE Mobilnet of Texas RSA #17, LP; et al. v. Strayhorn, et al.***

Cause Number: GN502649

AG Case #: 052186616

Filed: 7/29/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$10,177,377.49	01/01/93 - 12/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether purchases of telecommunications equipment qualify as tangible personal property for ultimate sale as tangible personal property that are exempt from sales tax under the manufacturing and processing exemption. Whether electricity purchased and used in telecommunications is exempt from sales tax under the manufacturing and processing exemption.

Status: Unopposed Motion to Reinstate filed 08/27/08. Trial set for 12/06/10.

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***City of Webster and the Webster Economic Development Corporation v. Strayhorn***

Cause Number: D-1-GV-06-001823 AG Case #: 062409446  
#03-08-00291-CV  
#10-0416

Filed: 9/15/2006

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$502,620.70	05/01/02 - 01/31/06

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Feldman, David M.	Feldman & Rogers, L.L.P. / Houston
Cowan, Robert W.	

Gregg, Jr., Dick H.	Gregg & Gregg, P.C. / Houston
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Issue: Whether the Comptroller's reallocation of local sales taxes based on the filing of amended tax returns violates the procedural and substantive due course of law provisions of the Texas Constitution and constitutes a taking. Whether the Comptroller's interpretation of Tax Code §321.002(a)(3) is constitutional. Whether Plaintiffs and Intervenors have standing to challenge the Comptroller's interpretation of sec. 321.002 of the Tax Code under the Texas Constitution, UDJA, and APA. Whether sovereign immunity bars Plaintiffs' & Intervenors' suit. Plaintiffs also request attorneys' fees.

Status: Discovery in progress. Defendant's Plea to the Jurisdiction filed 02/14/07. Original Plea in Intervention & Third Party Petition filed 04/18/07 by cities of Denton, Humble, Lewisville, Mesquite, North Richland Hills, and Plano, and Denton County Transportation Authority and Fort Worth Transportation Authority. Original Answer filed by City of Grand Prairie, third party defendant, on 05/29/07. First Amended Plea in Intervention filed on 06/12/07, adding the City of Waco as a party. Second Amended Plea in Intervention And Third-Party Petition filed 09/28/07. Hearing on Defendant's First Amended Plea to the Jurisdiction 02/07/08 at 9:00 a.m. Letter Ruling issued on 03/26/08, denying Defendant's First Amended Plea to the Jurisdiction and First Supplemental Plea to the Jurisdiction; Proposed Order submitted to court on 04/09/08 by Counsel for Intervenors. 04/11/08 Order denying Comptroller's 1st Amended & 1st Supplemental Pleas to the Jurisdiction signed by the court. Notice of Appeal filed 05/01/08. Hearing on Intervenors' Motion to Compel 06/11/08. Court ordered that commencement of trial, and all other proceedings in the trial court, including discovery, are automatically stayed pending resolution of the Comptroller's interlocutory appeal on 06/17/08. Appellant's brief filed 07/11/08. Appellee's brief filed 08/18/08. Appellant's Reply Brief filed

09/15/08. Submitted on oral argument on 06/10/09. Supplemental brief received from Appellee on 06/19/09. Response due 06/29/09. Appellee's Motion for Leave filed 06/29/09; granted 07/02/09. Opinion issued 10/02/09, affirming the trial court's denial of the plea to the jurisdiction as to the UDJA claim on the issue of whether the comptroller acted outside her authority regarding the determination of where specific sales were consummated, but reversed the trial court and dismissed the other UDJA claims, constitutional claims and APA claims and dismissed those claims for lack of subject matter jurisdiction. Supplemental Clerk's Record filed 10/15/09. Appellee's Motion for Rehearing filed 10/20/09; denied 04/16/10. Denton's Petition for Review filed in the Texas Supreme Court on 06/01/10. Webster's Petition for Review filed 06/03/10. State's Response filed 06/22/10. State's Cross-Petition for Review filed 06/30/10. Webster's Reply filed 07/07/10. Denton's Reply filed 07/09/10. Response to the State's Cross-Petition waived by Webster on 07/15/10, and by Denton on 07/16/10. Petitions for Review denied 08/20/10.

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***Clear Lake City Community Association, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004281 AG Case #: 062425582

Filed: 11/13/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$83,936.63	08/01/00 - 10/31/04

**Counsel Associated With This Case:**

*Assistant Attorney General*

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Phillips, Wade OAG Taxation / Austin

*Opposing Counsel*

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Knobelsdorf II, John C. Attorney at Law / Houston

Issue: Whether Plaintiff, as an exempt organization, is an exempt consumer of taxable real property services and not a seller of such services. Whether waste hauling service provided to association homeowners and paid for by Plaintiff is exempt from sales tax.

Status: Answer filed. Clerk sent notice to Dismiss for Want of Prosecution on 03/11/09. Plaintiff's Motion to Retain filed 03/31/09; granted 08/14/09.

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***Clinique Services, Inc. v. Rylander, et al.***

Cause Number: GN000376

AG Case #: 001273069

Filed: 2/11/2000

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$650,361.82	04/01/94 - 03/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan                      OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.              Jones Day / Dallas  
Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived.

Status: Court sent Notice of DWOP for 08/23/02. Plaintiff filed Motion to Retain; granted 02/27/03. Court DWOP on 06/15/05. Plaintiff filed Motion to Reinstate 07/12/05; granted 07/12/05. Defendants filed first amended answer, plea to the jurisdiction, special exceptions and motion for attorneys' fees 11/17/06.

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***Clinique Services, Inc. v. Sharp, et al.***

Cause Number: 98-03533

AG Case #: 98930330

Filed: 4/3/1998

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$519,192.00	04/01/90 - 03/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan                      OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.              Jones Day / Dallas  
Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Court sent Notice of DWOP for 12/20/00. Plaintiff filed Motion to Retain 12/15/00; granted 01/24/01. Court sent Notice of DWOP for 07/22/02. Plaintiff filed Motion to Retain 07/15/02; granted 01/16/03. Plaintiff filed Motion to Retain; granted 03/27/06. Set for trial on 11/10/08.

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***Clinique Services, Inc. v. Strayhorn, et al.***

Cause Number: GN500049

AG Case #: 052085933

Filed: 1/6/2005

Sales Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$654,245.96      04/01/98 - 03/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.

Jones Day / Dallas

Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived. Plaintiff also claims violation of rights under the Commerce and Due Process Clauses, and right to equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***Coastal Industries, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004273      AG Case #: 083092296

Filed: 11/18/2008

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$78,625.00      Oct. 1, 2000 - June 30, 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Mondrik, Christina A.

Mondrik & Associates / Austin

Issue: Whether mold remediation services are taxable. Whether work was done in a disaster area. Whether Comptroller rules are invalid. Whether equal protection and the commerce clause were violated. Whether Plaintiff detrimentally relied on Comptroller advice. Plaintiff also seeks declaratory relief.

Status: Discovery in progress.

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***Coca-Cola Company, The v. Strayhorn, et al.***

Cause Number: GN504213

AG Case #: 052253473

Filed: 11/28/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,060,883.03	07/01/97 - 03/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Hagenswold, R. Eric	
Osterloh, Curtis J.	

Issue: Whether replacement parts and the repair of fountain drink machines leased to customers by Plaintiff are exempt from sales tax as manufacturing equipment and the sale for resale exemption.

Status: Scheduling order filed 01/09/09.

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***Combs, et al. v. El Paso Electric Co.***

Cause Number: D-1-GN-09-001489 AG Case #: 093130326  
#03-10-00443-CV

Filed: 5/11/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$707,570.46	08/01/1995 through 06/30/1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether certain items were exempt under §151.318 (g) prior to Oct. 1, 1997. Whether a cross arm arrestor was exempt under §151.318 (a)(4) after Oct. 1, 1997.

Status: Trial held 03/29/10. Judgment for El Paso on 04/29/10. The State filed a Notice of Appeal on 07/26/10.

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***Continental Airlines, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-001751 AG Case #: 103200416

Filed: 5/28/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,919,943.00	11/01/1998 to 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether the Comptroller properly applied the statute of limitations to specific transactions based on the invoice date rather than an accrual date. Whether the Comptroller properly excluded a transaction from an audit sample based on the invoice date.

Whether Plaintiff's purchase of TPP and building maintenance services, used or consumed at a leased facility, qualify for the sale for resale exemption.

Whether Plaintiff's purchase of equipment and consumable supplies qualify for exemption under 151.328(d) (aircraft maintenance) and 151.328(e), respectively.

Status: Answer filed.

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***Cosmair, Inc. v. Strayhorn, et al.***

Cause Number: GN302009

AG Case #: 031816135

Filed: 6/9/2003

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$1,322,536.67	07/01/96 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether Plaintiff owes use tax on items transferred free of charge that are subsequently brought into Texas. Plaintiff specifically challenges whether: 1) “use” includes distribution; 2) use was only out-of-state where control transferred; 3) longstanding policy may be changed; 4) Rule 3.346 does not support tax on promotional materials; 5) use tax applies without title or possession; 6) no consideration for transfer; 7) Rule 3.346(b)(3)(A) is invalid; 8) tax is bared by Commerce, Due Process and Equal Protection Clauses; and 9) resale exemption applies. Plaintiff also seeks attorneys’ fees.

Status: Agreed Motion to Retain filed 04/23/07; granted 08/14/07.

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***Crown Central Petroleum Corporation v. Strayhorn, et al.***

Cause Number: GN504190

AG Case #: 052260197

Filed: 11/22/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$136,903.16	12/01/96 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether charges of contractors for erecting, moving and dismantling scaffolding are exempt from sales and use tax as a non-taxable service, or taxable as rental of tangible personal property. Whether certain work performed by contractors is new construction under a lump sum contract and thus not taxable.

Status: Discovery in progress. Plaintiff’s Motion for Summary Judgment filed 02/11/08.  
Awaiting decision in Chevron.

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***Crown Central, L.L.C., et al. v. Combs, et al.***

Cause Number: D-1-GN-09-000509

AG Case #: 093107126

Filed: 2/17/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$159,825.70	01/01/00 to 09/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff owes sales tax on scaffolding. Whether scaffolding charges were readily separable from charges for the lease or rental of property.

Status: Answer filed.

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***Day Cruises Maritime, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-063567

AG Case #: 062410139

Filed: 9/21/2006

Sales Tax; Protest

Claim Amount      Reporting Period

\$243,910.85      12/01/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Beam, Patrick L.

Attorney at Law / Aransas Pass

Issue: Whether Plaintiff's charter of a vessel is leased property subject to sales and use tax. Whether the vessel was used or received within the state. Plaintiff claims that the Comptroller does not have legal authority to collect the assessed tax.

Status: Trial set for 04/04/11.

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***Del Monte Fresh Produce (Texas), Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-002414

AG Case #: 093142628

Filed: 7/28/2009

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$1,877,825.91      01/01/2000 through 07/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Ohlenforst, Cynthia M.

Hughes & Luce / Dallas



Issue: Whether Del Monte qualifies for the manufacturing exemption on equipment, parts, packaging and electricity used in its operations with raw potatoes and tomatoes.

Status: Answer filed.

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***Delta Air Lines, Inc. v. Strayhorn, et al.***

Cause Number: GN400439

AG Case #: 041925868

Filed: 2/13/2004

#03-09-00312-CV

Sales Tax; Refund

Claim Amount      Reporting Period

\$1,642,267.15      02/01/93 - 12/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether Plaintiff's purchases of janitorial and building maintenance services being resold under a lease agreement are exempt under the sale for resale exemption. Whether Plaintiff's purchases of mechanical maintenance services were exempt as taxable services purchased in the performance of a real property contract for an exempt entity.

Status: Trial set for 12/08/08. Trial passed by agreement. Motion for Summary Judgment filed 04/09/09. Motion for Summary Judgment hearing held 04/30/09. Final Judgment granted for Defendants on 05/08/09. Notice of Appeal filed 06/02/09. Clerk's Record filed 07/02/09. Appellant's brief filed 08/10/09; oral argument requested. Appellee's brief filed 09/04/09. Oral argument denied 09/17/09. Appellant's Reply Brief filed 09/24/09. Case submitted on briefs on 07/21/10. Opinion issued 08/03/10, affirming the district court's judgment.

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***Dick Roberts Corp., et al. v. Combs, et al.***

Cause Number: D-1-GN-09-002917      AG Case #: 093150027

Filed: 9/2/2009

Sales and use Tax; Declaratory Relief

Claim Amount      Reporting Period

\$451,000.00      10/01/1997 through 06/30/2004

Counsel Associated With This Case:

*Assistant Attorney General*

Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray

Ray, Wood & Bonilla, L.L.P. / Austin

Ray, Doug W.

Issue: Whether the 50% penalty under §111.061 was properly applied to the underlying assessment. Whether the assessment of interest should be waived. Whether the Comptroller properly denied insolvency relief under §111.102.

Status: Discovery in progress.

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***EFW, Inc. v. Rylander, et al.***

Cause Number: GN200906

AG Case #: 021579578

Filed: 3/19/2002

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
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\$123,440.25	04/01/94 - 03/31/98
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Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Osterloh, Curtis J.

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***EFW, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000058

AG Case #: 062269022

Filed: 1/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
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\$600,000.00	04/01/98 - 08/31/04
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Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Osterloh, Curtis J.

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Answer filed.

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***ELC Beauty, L.L.C., as a Successor-in-Interest to Estee Lauder Services, Inc.  
v. Strayhorn, et al.***

Cause Number: GN500048

AG Case #: 052085990

Filed: 1/6/2005

Sales Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$586,255.47      07/01/99 - 06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan                      OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.                      Jones Day / Dallas

Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived. Plaintiff also claims violation of rights under the Commerce and Due Process Clauses, and right to equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***ELC Beauty, L.L.C., as Successor-in-Interest to Aramis Services, Inc. v. Rylander, et al.***

Cause Number: GN203514

AG Case #: 021681226

Filed: 9/26/2002

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$284,508.69	01/01/98 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived.

Status: Answer filed.

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***ELC Beauty, L.L.C., as Successor-in-Interest to Origins Services, Inc. v. Strayhorn, et al.***

Cause Number: GN500047

AG Case #: 052085966

Filed: 1/6/2005

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$750,946.09	03/01/98 - 06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule

3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived. Plaintiff also claims violation of rights under the Commerce and Due Process Clauses, and right to equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***Embassy Equity Development Corporation, et al. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004267 AG Case #: 062425566

Filed: 11/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$11,487.10	01/01/96 - 12/31/98
	06/01/97 - 05/31/01
\$10,494.52	01/01/95 - 12/31/98
\$17,485.53	12/01/98 - 03/31/02
\$2,615.82	01/01/98 - 12/31/00
\$4,190.26	09/01/94 - 06/30/97
\$1,658.68	09/01/94 - 05/31/98
\$2,894.76	09/01/94 - 03/31/98
\$4,044.05	07/01/95 - 12/31/98
	01/01/99 - 05/31/02
\$1,440.73	09/01/94 - 08/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray

Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Hearing on Cross-Motions for Summary Judgment held 08/18/10. Court ruled for the Comptroller on 08/24/10.

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***Energy Education of Montana, Inc. v. Combs***

Cause Number: D-1-GN-09-001249 AG Case #: 093120491

Filed: 4/17/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$890,601.19	06/06/03 to 06/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar	OAG Taxation / Austin
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*Opposing Counsel*

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Rogers, Harold D.	Wichita Falls
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Johnson III, Robert F.	Gardere Wynne & Sewell / Dallas
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Issue: Whether Plaintiff's purchase of an aircraft is non-taxable when the aircraft is delivered out of state and registered there.

Status: Cross-Motions for Summary Judgment heard on 05/12/10. Letter ruling granting Comptroller's MSJ and denying Plaintiff's MSJ entered 06/10/10. Final Order signed 08/19/10.

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***Energy Education of Montana, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-002728 AG Case #: 093146496

Filed: 8/20/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$154,800.33	06/01/2003 through 06/30/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar	OAG Taxation / Austin
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*Opposing Counsel*

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Johnson III, Robert F.	Gardere Wynne & Sewell / Dallas
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Issue: Whether Plaintiff's purchase of an aircraft is non-taxable when the aircraft is delivered out of state and registered there.

Status: Abated by agreement pending resolution of Energy Education of Montana, Inc. v. Combs, Cause #D-1-GN-09-001249.

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***Estee Lauder Services, Inc. v. Rylander, et al.***

Cause Number: GN101312

AG Case #: 011439874

Filed: 5/1/2001

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$614,814.78	04/01/96 - 06/30/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Answer filed.

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***Estee Lauder Services, Inc. v. Sharp, et al.***

Cause Number: 98-03525

AG Case #: 98930358

Filed: 4/3/1998

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$472,225.00	01/01/89 - 09/30/92

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Court sent Notice of DWOP for 12/20/00. Plaintiff filed Motion to Retain 12/15/00; granted 01/24/01. Court sent Notice of DWOP for 07/22/02. Plaintiff filed Motion to Retain 06/15/02; granted 02/03/03. See *Estee Lauder Services, Inc. v. Sharp, et al.*, Cause #98-03524.

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***Estee Lauder Services, Inc. v. Sharp, et al.***

Cause Number: 98-03524

AG Case #: 98930367

Filed: 4/3/1998

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$748,773.00	10/01/92 - 03/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Court sent Notice of DWOP for 12/20/00. Plaintiff filed Motion to Retain 12/15/00; granted 01/24/01. Court sent Notice of DWOP for 07/22/02. Plaintiff filed Motion to Retain 07/15/02; granted 02/03/03. Numerous scheduling orders have been entered in this case since 2003; the latest being 11/2006. Discovery in progress.

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***F M Express Food Mart, Inc., and Fouad Hanna Mekkessi v. Rylander, et al.***

Cause Number: GN002724

AG Case #: 001353960

Filed: 9/15/2000

Sales Tax; Injunction

Claim Amount	Reporting Period
\$360,671.05	12/01/90 - 11/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Isgitt, Percy L. "Wayne"	Law Offices of Percy L. "Wayne" Isgitt, P.C. / Houston
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Issue: Whether Comptroller's "estimated audit" is invalid. Whether Plaintiffs are entitled to an injunction of collection and of cancellation of their sales tax permits. Whether Tax Code §§112.051, 112.052, 112.101 and 112.108 are unconstitutional violations of the open courts provision. Plaintiffs seek a re-audit and a refund of money paid under protest in excess of the re-audited amount.

Status: Discovery in progress.

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***First Class Enterprises, Inc. v. Combs, et al.***



Cause Number: D-1-GN-09-001271 AG Case #: 093120772

Filed: 4/17/2009

Sales and use Tax; Declaratory Judgment & Injunction

Claim Amount Reporting Period

\$150,000.00 10/01/00 through 04/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Fowler, Gerald Fife Houston

Issue: Whether Plaintiff is liable for tax as successor when assessment was made after Plaintiff bought business.

Status: Answer filed.

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***Florida Management, Inc., et al. v. Compt., et al.***

Cause Number: D-1-GN-08-004244 AG Case #: 083091280

Filed: 11/21/2008

Sales and use Tax; Protest

Claim Amount Reporting Period

\$85,965.30 Oct. 1, 2001 - Dec. 31, 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar OAG Taxation / Austin

*Opposing Counsel*

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Stratton, C. Mark Austin

Lyon, Ted B. Mesquite

Issue: Whether Plaintiff is a "retailer" or "seller" for the sales tax. Whether sale of an airplane in connection with an unpaid loan is a taxable transaction.

Status: Answer filed.

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***Frito-Lay, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004051 AG Case #: 082539784

Filed: 11/7/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$450,735.13	11/01/1999 thru 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Plaintiff claims the manufacturing exemption for tangible personal property used to develop and test new products and manufacturing processes.

Status: Discovery in progress. Cross-Motions for Summary Judgment heard on 06/15/10. Cross-Motions denied 06/16/10. Non-jury trial set for 09/13/10.

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***Future A's Limited Liability v. Combs, et al.***

Cause Number: D-1-GN-09-003565 AG Case #: 093157964

Filed: 10/15/2009

Sales and use Tax; Redetermination

Claim Amount	Reporting Period
\$134,706.00	12/31/2004 through 03/31/2006

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Mastrangelo, John	Houston
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Issue: Whether the audit procedures applied in the audit were appropriate.

Status: Plea to the Jurisdiction and Special Exceptions filed 11/16/09. Discovery in progress.

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***General Dynamics Corporation v. Rylander, et al.***

Cause Number: GN201322

AG Case #: 021598057

Filed: 4/22/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$7,000,000.00	09/01/88 - 11/30/91

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Answer filed.

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***General Dynamics Corporation v. Rylander, et al.***

Cause Number: GN201323

AG Case #: 021598073

Filed: 4/22/2002

Sales Tax; Refund

Claim Amount	Reporting Period
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\$4,500,000.00	12/01/91 - 02/28/93
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Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Motion and Order consolidating into Lockheed Martin Corporation v. Rylander, et al., Cause #GN200999 entered 01/30/08.

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***GEO Group, Inc., The v. Combs, et al.***

Cause Number: D-1-GN-09-002855

AG Case #: 093146850

Filed: 8/28/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
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\$1,367,377.14	05/01/2001 through 04/30/2005
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Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Hagenswold, R. Eric

Issue: Whether electricity and natural gas consumed by a correctional facility is subject to the residential use exemption under §151.317(c).

Status: Discovery in progress.

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***Gift Box Corporation of America, Inc. v. Rylander, et al.***

Cause Number: GN102934

AG Case #: 011492865

Filed: 9/5/2001

Sales Tax; Protest

Claim Amount	Reporting Period
\$359,929.22	10/1991 - 03/1997

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Lipstet, Ira A.                      DuBois Bryant Campbell & Schwartz, L.L.P. /  
Austin

Issue: Whether additional resale certificates should have been accepted for Plaintiff's sales of boxes and packaging materials.

Status: Case reinstated. Discovery in progress.

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***Glazier Foods Co. v. Combs, et al.***

Cause Number: D-1-GN-09-002137

AG Case #: 093136810

Filed: 7/2/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$148,709.00	02/01/1999 through 03/31/2002

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.

Attorney at Law / Austin

Issue: Plaintiff claims an exemption for electricity used in its food business.

Status: Answer filed.

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***Grocers Supply Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001804 AG Case #: 093131431

Filed: 6/6/2009

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$208,304.00      11/01/1999 through 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.

Attorney at Law / Austin

Issue: Whether Plaintiff's purchase of electricity, equipment and parts were exempt because of their use in processing by lowering the temperature of food products. Plaintiff also seeks attorney's fees.

Status: Answer filed.

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***Grocers Supply-Institutional-Convenience, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001803 AG Case #: 093131415

Filed: 6/6/2009

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$55,893.00      08/01/1999 through 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.

Attorney at Law / Austin

Issue: Whether Plaintiff's purchase of electricity, equipment and parts were exempt because of their use in processing by lowering the temperature of food products. Plaintiff also seeks attorney's fees.

Status: Answer filed.

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***Grocers Supply-Institutional-Convenience, Inc. v. Rylander, et al.***

Cause Number: GN300904

AG Case #: 031782931

Filed: 3/20/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$79,688.23	06/01/95 - 05/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether Plaintiff's purchase of electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Discovery in progress.

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***Grocers Supply-Produce Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001805

AG Case #: 093131423

Filed: 6/6/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$78,796.00	08/01/1999 through 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether Plaintiff's purchase of electricity, equipment and parts were exempt because of their use in processing by lowering the temperature of food products. Plaintiff also seeks attorney's fees.

Status: Answer filed.

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***GSC Enterprises, Inc. v. Strayhorn, et al.***

Cause Number: GN501091

AG Case #: 052132271

Filed: 4/7/2005

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$241,656.28	02/01/97 - 04/30/00

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether the Comptroller violated the rules of statutory construction. Plaintiff claims violation of equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress.

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***GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000649

AG Case #: 062295480

Filed: 2/23/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,193,519.44	10/01/91 - 12/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether tangible personal property used or consumed in providing telecommunications is exempt from sales tax. Whether electricity is exempt because of use in a manufacturing area.

Status: Trial set for 12/06/10.

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***GTE Southwest, Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000058 AG Case #: 072433519

Filed: 1/8/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$260,313.96	01/01/96 - 02/28/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether telecommunication signals constitute tangible personal property exempt from tax under the manufacturing and processing exemption. Whether equipment used in or during the processing of telecommunication signals causes a physical change to the signals. Whether the processing of telecommunication signals, which Plaintiff claims are tangible personal property, should be treated as a sale.

Status: Trial set for 12/06/10.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: GN501139

AG Case #: 052132818

Filed: 4/11/2005

#03-08-00561-CV

Sales Tax; Refund

Claim Amount	Reporting Period
\$22,847,194.00	01/01/95 - 02/28/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Hagenswold, R. Eric	
Osterloh, Curtis J.	



Issue: Whether equipment purchased by Plaintiff to provide customers-subscribers telecommunications products is exempt as tangible personal property used in manufacturing and processing or as tangible personal property that was resold. Whether penalty should be waived because Plaintiff had substantial overpayment during the audit period.

Status: Answer filed. Plaintiff filed Motion for Partial Summary Judgment 01/25/08. Motion set for 07/02/08. Defendants filed Cross-motion for Summary Judgment 06/03/08. Additional Response to Plaintiff's Motion for Partial Summary Judgment filed by Defendant on 06/24/08. Plaintiff's Reply to Defendants' MSJ filed 06/24/08. Summary judgment motions heard 07/02/08. Defendants' motion granted and Plaintiff's motion denied 08/18/08. Plaintiff filed notice of appeal on 09/10/08. Appellant's Motion for Extension of Time to File brief filed and granted 11/05/08. Brief filed 12/08/08. Appellee's Motion for Extension of Time to File Brief filed and granted 12/18/08. Appellee's Brief filed 02/27/09; oral argument requested. Appellant's reply brief filed 04/02/09. Submitted on oral argument on 11/18/09. Memorandum Opinion issued 06/03/10, affirming the district court's judgment. Appellant's Motion for rehearing overruled 07/02/10. Petition for review filed 08/16/10. Conditional Waiver of Response submitted 08/25/10.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: GN501829

AG Case #: 052154143

Filed: 5/19/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$14,000,000.00	10/01/93 - 02/28/98
\$72,000,000.00	03/01/98 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Osterloh, Curtis J.

Issue: Whether equipment purchased by Plaintiff to provide customers-subscribers telecommunications products is exempt as tangible personal property used in manufacturing and processing or as tangible personal property that was resold. Whether penalty should be waived because Plaintiff had substantial overpayment during the audit period.

Status: Court order consolidating with GTE Southwest, Inc. v. Strayhorn, et al., Cause #GN504191 signed 02/03/08. Trial set for 12/06/10.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: GN502330

AG Case #: 052177326

Filed: 7/6/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,615,825.26	05/01/91 - 02/28/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether equipment purchased by Plaintiff to provide customers-subscribers telecommunications products is exempt as tangible personal property used in manufacturing and processing or as tangible personal property that was resold. Whether penalty should be waived because Plaintiff had substantial overpayment during the audit period.

Status: Trial set for 12/06/10.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: GN504191

AG Case #: 052252699

Filed: 11/22/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$260,489.27	01/01/96 - 02/28/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether equipment purchased by Plaintiff to provide customers-subscribers telecommunications products is exempt as tangible personal property used in manufacturing

and processing or as tangible personal property that was resold.

Status: Case consolidated into case styled GTE Southwest, Inc. v. Strayhorn, et al., Cause #GN501829 per court order signed 02/03/08.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003732 AG Case #: 062412887

Filed: 9/29/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,900,000.00	03/01/98 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether electricity purchased by Plaintiff to perform telecommunications services is exempt as tangible personal property that was resold. Whether tangible personal property used or consumed in providing telecommunications is exempt from sales tax. Whether electricity is exempt because of use in a manufacturing area.

Status: Trial set for 12/06/10.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002468 AG Case #: 062380522

Filed: 7/6/2006

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$22,847,194.00	01/01/1995 through 02/28/1998

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Sigel, Doug

Issue: Whether tangible personal property used or consumed in providing telecommunications is exempt from sales tax.

Status: Answer filed 07/26/06. DWOP notice sent from the court on 11/12/08. Motion to Retain filed 11/24/08. Trial set for 12/06/10.

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***GTE Southwest, Inc. vs Compt., et al.***

Cause Number: D-1-GN-08-001419 AG Case #: 082507401

Filed: 4/24/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$694,870.88	May-June 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether Plaintiff may recover additional interest and payment discounts on taxes for which it provided a refund assignment.

Status: Discovery in progress.

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***GWR Aviation, LLC v. Combs, et al.***

Cause Number: D-1-GN-10-002059 AG Case #: 103202826

Filed: 6/21/2010

Sales and use Tax; Injunction

Claim Amount	Reporting Period
\$217,346.25	April 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens & Associates / Austin
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Seay, Michael B.

Todd, Kelli H.

Issue: Whether the purchase of an aircraft was exempt from sales/use tax under the resale exemption in §151.302.

Whether the purchase of an aircraft was subject to exemption from sales/use tax pursuant to §151.328(a)(1).

Whether Plaintiff's purchase of the aircraft is exempt as an occasional sale under §151.304.

Plaintiff seeks an injunction against the Comptroller's collection of the tax assessment.

Status: Answer filed.

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***Harsco Corp. vs Combs, et al.***

Cause Number: D-1-GN-07-004512 AG Case #: 082486747

Filed: 12/28/2007

Sales Tax; Protest

Claim Amount	Reporting Period
\$886,138.23	02/01/97-06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Martin, Mark R.	Gardere Wynne & Sewell / Dallas
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Issue: Whether scaffolding is exempt. Whether interest and penalty should be waived.

Whether interest was properly calculated.

Status: Hearing on Cross-Motions for Partial Summary Judgment held on 11/10/09. Partial Summary Judgment granted for Harsco on scaffolding. Summary Judgment granted for Comptroller on interest calculations.

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***Health Care Service Corp., et al. vs. Compt., et al.***

Cause Number: D-1-GN-08-001771 AG Case #: 082512302

Filed: 5/23/2008

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,475,798.29	1-1-1999 through 12-31-2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to the resale exemption pursuant to the Day & Zimmerman and Raytheon cases.

Status: Answer filed. Trial held 06/01/10. Judgment for Plaintiff entered 07/13/10.

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***High Tech Document Service v. Combs, et al.***

Cause Number: D-1-GN-10-000220 AG Case #: 103175469

Filed: 1/20/2010

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$61,592.65      09/01/00 through 01/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom

Hance Scarborough Wright Woodward &  
Weisbart, L.L.P. / Austin

Issue: Whether the purchase of certain items subsequently leased to a third party are eligible for the sale-for-resale exemption.

Status: Answer & Special Exception filed.

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***Home & Garden Party, Ltd. v. Combs, et al.***

Cause Number: D-1-GN-10-000051 AG Case #: 103174561

Filed: 1/6/2010

Sales and use Tax; Refund

Claim Amount      Reporting Period

\$313,133.93      07/01/04 through 04/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Hobbs, Mark C.

Beard Kultgen Brophy Bostwick & Dickson,  
L.L.P. / Waco

Issue: Whether packaging materials and supplies used in the manufacturing of tangible personal property for sale are exempt under the sale for resale exemption. Plaintiff claims unconstitutional administrative discrimination and violation of due process and equal protection under the U.S. and Texas Constitutions.

Status: Answer filed.

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***Home & Garden Party, Ltd. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001392 AG Case #: 062311402  
#03-09-00673-CV

Filed: 4/21/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$791,634.49	01/01/98 - 05/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Brophy, Jr., Richard E.	Beard Kultgen Brophy Bostwick & Dickson, L.L.P. / Waco
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Hobbs, Mark C.

Issue: Whether packaging materials and supplies used in the repackaging of tangible personal property for sale are exempt under the sale for resale exemption. Plaintiff claims unconstitutional administrative discrimination and violation of due process and equal protection under the U.S. and Texas Constitutions.

Status: Plaintiff's Motion for Summary Judgment held 08/31/09. Plaintiff's Motion for Summary Judgment granted 09/22/09. Judgment signed 11/04/09. Notice of Appeal filed 11/24/09. Clerk's Record filed 01/14/10. Appellant's brief filed 02/12/10. Appellee's brief filed 03/16/10. Appellant's Reply Brief filed 04/01/10. Appellee's Motion to Appear Pro-Hac Vice filed 08/18/10; granted 08/24/10. Case set for submission on oral argument on 09/29/10 at 9:00 a.m.

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***Home Depot, USA, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002463 AG Case #: 062380324

Filed: 7/6/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,595,000.00	01/01/95 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether Plaintiff may take bad debt credit under private label credit agreement.

Status: Trial set for 06/28/10.

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***Hoss Equipment Co. v. Combs, et al.***

Cause Number: D-1-GN-09-000614 AG Case #: 093107316

Filed: 2/25/2009

Sales and use Tax; Refund

Claim Amount      Reporting Period

\$29,452.00      (plus interest and penalty) 7/1/00-2/29/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar

OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff made sales for resale and should not be bound by the limits of the 60-day letter. Whether Plaintiff made exempt sales for export. Plaintiff also seeks penalty and interest waiver.

Status: Answer filed.

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***Jerman Cookie Company v. Rylander, et al.***

Cause Number: GN101492

AG Case #: 011451598

Filed: 5/16/2001

#03-08-00562-CV

Sales Tax; Refund & Declaratory Judgment

Claim Amount      Reporting Period

\$43,121.45      12/01/92 - 03/31/97



Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Williard, Steve M.

Meyer, Knight & Williams / Houston

Knight, L. Don

Issue: Whether Plaintiff's sales of cookies and brownies are taxable under Tax Code 151.314(c)(3) and Comptroller Rule 3.293 as food products served, prepared, or sold ready for immediate consumption.

Status: Amended Petition filed. Discovery in progress. Plaintiff's Motion to Retain filed 07/13/05; granted 10/03/05. Hearing on Cross-Motions for Summary Judgment held 06/09/08. Trial Court's Judgment granting Defendants' Cross-Motions for Summary Judgment entered 06/25/08. Notice of Appeal filed 09/11/08. Clerk's Record filed 09/25/08. Appellant's brief filed 11/24/08. Appellees' Motion for Extension of Time to File Brief filed and granted 12/19/08. Appellees' brief filed 01/12/09. Appellant's Reply Brief filed 01/29/09. Set for submission on oral argument on 02/25/09. Appellees' Motion to Postpone Oral Argument filed 02/09/09. Submitted on oral argument on 04/24/09. Memorandum Opinion issued 07/23/09, reversing the judgment of the district court and remanding for further proceedings consistent with the opinion. Mandate issued 10/05/09. Jury trial set for 03/22/10 was passed.

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***Jetman, L.C. v. Combs, et al.***

Cause Number: D-1-GN-10-000311 AG Case #: 103176657

Filed: 1/28/2010

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$165,547.03      08/01/03 through 08/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar

OAG Taxation / Austin

*Opposing Counsel*

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Mondrik, Christina A.

Mondrik & Associates / Austin

Issue: Whether the purchase of an aircraft was subject to exemption from the sales/use tax pursuant to §151.328(a)(1).

Status: Answer filed.

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***Kenneth O. Lester Co., et al. v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003762 AG Case #: 082534553

Filed: 10/17/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$180,000.00	Sept. 1, 1999 through Feb. 29, 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether Plaintiff's purchase of electricity is exempt as electricity used in processing when Plaintiff lowers the temperature of food products. Whether packing supplies, replacement parts, and repairs are exempt.

Status: Answer filed.

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***La Frontera Lodging Partners, L.P., Tex-Air Investment Company, John Q. Hammons Hotels Two, L.P. and John Q. Hammons Hotels, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004633 AG Case #: 062430566

Filed: 12/15/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$6,958.18	07/01/00 - 06/30/04
\$5,591.87	07/01/00 - 06/30/04
\$31,330.82	07/01/00 - 06/30/04
\$21,811.57	07/01/00 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar

items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed. Court sent Notice of DWOP on 06/12/09. Plaintiffs' Amended Motion to Retain filed 08/19/09; granted 08/28/09.

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***Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-03-000575 AG Case #: 031759657  
#03-09-00157-CV  
#10-0637

Filed: 2/21/2003

**Sales Tax; Refund**

Claim Amount	Reporting Period
\$6,726.00	05/01/93 - 06/30/96
	10/01/91 - 06/30/96
\$591,086.00	01/01/90 - 12/31/92
	07/01/91 - 06/30/96

**Counsel Associated With This Case:**

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Osterloh, Curtis J.

Issue: Whether post-mix machines qualify for manufacturing tax exemption. Whether some of the machines also qualify for the sale for resale exemption, because Plaintiff received consideration even if not valued in money.

Status: Plaintiffs filed a Motion for Summary Judgment 04/23/05. Discovery in progress. Court ruled in favor of Defendants Motion for Summary Judgment. Plaintiffs filed Notice of Appeal on 03/26/09. Appellant's brief filed 06/05/09. Appellee's Motion for Extension of Time to File Brief filed 06/26/09; granted 06/29/09. Second Motion for Extension of Time to File Appellee's brief filed 08/05/09; granted 08/10/09. Brief filed 08/06/09. Appellant's Motion for Extension of Time to File Brief filed 08/25/09; granted 08/27/09. Appellant's Reply Brief filed 09/15/09. State's Reply Brief filed 10/06/09. Appellee's Reply Brief filed 10/19/09. Case submitted on oral argument on 02/10/10. Opinion issued 04/15/10, affirming the judgment of the district court. Appellant's Motion for Rehearing denied 07/09/10. Petition for Review filed in the Tx. Supreme Court on 08/17/10. Response due 09/16/10.

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***Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al.***

Cause Number: GN401379

AG Case #: 041964941

Filed: 4/30/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$18,579.66	05/01/93 - 06/30/96
	10/01/91 - 06/30/96
\$443,299.77	01/01/90 - 12/31/92
	07/01/91 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Osterloh, Curtis J.

Issue: Whether Plaintiff owes sales tax on the purchase of money validators due to the integration of the validators into the final product, the vending machine.

Status: Discovery in progress. Defendants' Motion to Strike Deemed Admissions granted 02/20/09. Defendants' Amended Responses to Plaintiff's Second Requests for Admissions signed 02/23/09. Court denied Plaintiffs' MSJ heard on 04/01/10.

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***Lee Construction and Maintenance Company v. Rylander, et al.***

Cause Number: 99-01091

AG Case #: 991112160

Filed: 1/29/1999

Sales Tax; Protest

Claim Amount	Reporting Period
\$31,830.47	01/01/92 - 12/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade OAG Taxation / Austin

*Opposing Counsel*

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Trickey, Timothy M. The Trickey Law Firm / Austin

Issue: Various issues, including credits for bad debts, tax paid, tax on new construction and tax paid in Louisiana, resale exemptions and waiver of penalty and interest.

Status: Trial to be reset. Motion to Retain filed by Plaintiff 11/29/06. Order granting Motion to Retain signed 03/27/07.

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***Lewis & Lambert, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001963 AG Case #: 093134492

Filed: 6/18/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$113,401.71	11/01/02-04/30/06

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens & Associates / Austin
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Issue: Whether Plaintiff's construction contracts are separated rather than lump-sum, such that the sales tax obligation passes to the property owners. Plaintiff also seeks a declaration that the Comptroller misapplied §151.056.

Status: Answer filed.

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***Liberty Vending Services, Inc. v. Strayhorn, et al.***

Cause Number: GN502836

AG Case #: 052198108

Filed: 8/11/2005

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$9,000.00	10/01/98 - 06/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens & Associates / Austin
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Mondrik, Christina A.	Mondrik & Associates / Austin
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Issue: Whether Plaintiff is liable for sales and use tax on sales of food items, soft drinks and

candy sold through contracted vending machines located at exempt locations. Whether the Comptroller improperly categorized certain food item purchases as taxable. Plaintiff seeks injunctive relief and release of all state tax liens. Plaintiff claims violation of constitutional rights and equal protection and equal taxation. Plaintiff also claims violation of the Commerce Clause and the Supremacy Clause.

Status: Answer filed.

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***Lockheed Corporation v. Rylander, et al.***

Cause Number: GN201000

AG Case #: 021583745

Filed: 3/26/2002

D-1-GN-02-001000

Sales Tax; Refund

Claim Amount      Reporting Period

\$7,000,000.00      03/01/93 - 01/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Plaintiff filed Motion to Retain; granted 05/23/07.

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***Lockheed Martin Corporation v. Rylander, et al.***

Cause Number: GN200999

AG Case #: 021583737

Filed: 3/26/2002

Sales Tax; Refund

Claim Amount      Reporting Period

\$3,500,000.00      01/01/96 - 09/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Motion and Order consolidating with *General Dynamics Corp. v. Rylander, et al.*, Cause #GN201323 entered 01/30/08. Amended Notice of Trial Setting filed 01/30/09. Amended Agreed Scheduling Order filed 11/17/09.

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***Lubrizol Corp., The v. Combs, et al.***

Cause Number: D-1-GN-09-003193 AG Case #: 093151769

Filed: 9/18/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$300,000.00	01/01/1998 through 12/31/2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Gilliland, David H.	Clark, Thomas & Winters / Austin
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Issue: Whether the Comptroller used the proper calculation method for interest on tax overpayments applied to tax underpayments.

Status: Answer filed.

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***Lyondell Chemical Co. v. Combs, et al.***

Cause Number: D-1-GN-09-003194 AG Case #: 093151751

Filed: 9/18/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,600,000.00	01/01/1998 through 12/31/2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Gilliland, David H.	Clark, Thomas & Winters / Austin
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Issue: Whether the Comptroller used the proper calculation method for interest on tax overpayments applied to tax underpayments. Whether charges of contractors for erecting,

maintaining and dismantling scaffolding are exempt as a non-taxable service, or taxable as rental of tangible personal property.

Status: Answer filed.

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***Mars, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004471 AG Case #: 093096741

Filed: 12/12/2008

Sales and use Tax; Protest & Refund

Claim Amount	Reporting Period
\$804,889.00	10/1/1997 through 12/31/2001

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Plaintiff's purchases of certain equipment and related items are exempt from sales tax under the manufacturing exemption. Whether Plaintiff's purchases of magazine subscriptions are exempt from sales tax. Whether Plaintiff's purchases of waste removal services are exempt from sales tax.

Status: Discovery in progress.

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***Mars, Inc. v. Strayhorn, et al.***

Cause Number: GN401349

AG Case #: 041965336

Filed: 4/29/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$726,024.00	01/01/94 - 09/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Hagenswold, R. Eric	

Issue: Whether Plaintiff's purchases of certain equipment and related items are exempt from



sales tax under the manufacturing exemption. Whether Plaintiff's purchases of installation labor are exempt as purchases of non-taxable stand-alone installation services.

Status: Discovery in progress. Trial passed by agreement. Hearing on Plaintiff's Motion for Partial Summary Judgment previously set for the week of 06/28/10 has been reset for 12/09/10.

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***Matoka, Inc. vs. Compt., et al.***

Cause Number: D-1-GN-08-001217 AG Case #: 082505595

Filed: 4/10/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$171,963.00	04/01/2001 through 11/30/2004

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Mondrik, Christina A.	Mondrik & Associates / Austin
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Issue: Whether Plaintiff is engaged in non-taxable erosion control services. Whether the essence of Plaintiff's transactions is services. Whether Plaintiff's services are exempt as environmental services. Whether Rule 3.291 is invalid. Whether the Comptroller violated equal protection and the Commerce Clause. Plaintiff also seeks penalty and interest abatement and declaratory relief.

Status: Answer filed.

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***Maxus Energy Corporation as Successor in Interest to Maxus Corporate Company v. Strayhorn, et al.***

Cause Number: GN404187

AG Case #: 052082260

Filed: 12/27/2004

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$1,794,780.29	09/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
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Lochridge, Robert

Issue: Whether items purchased by Plaintiff to be exported outside of the U.S. by a freight consolidator and not invoiced individually are exempt from sales and use tax. Whether the Comptroller's auditing techniques can assess tax on transactions previously audited and non-assessed. Whether Plaintiff "purchased" or "rented" software, and whether services provided to implement the software are taxable. Whether services performed on tangible personal property provided by a third party are exempt from sales and use tax. Plaintiff claims violation of equal and uniform taxation, and due process. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Answer filed.

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***Olmos Abatement, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004361 AG Case #: 083092882

Filed: 12/3/2008

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$9,739.97	10/01/01 through 12/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Trickey, Timothy M.	The Trickey Law Firm / Austin
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Issue: Whether expense items used in the asbestos abatement process are exempt. Whether the items were resold to the exempt entities for whom the services were performed.

Status: Answer filed.

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***Pop Restaurants, LLC. v. Combs, et al.***

Cause Number: D-1-GN-10-002636 AG Case #: 103207007

Filed: 7/9/2010

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$91,679.00	01/01/2003 thru 12/31/2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Plaintiff alleges that it over reported sales and remitted sales tax on that amount.

Status: Answer filed.

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***Richard's Heating & Air Conditioning, Inc. v. State of Texas, et al.***

Cause Number: C-1-CV-08-006490 AG Case #: 082517020

Filed: 6/30/2008

Sales and use Tax; Injunction

Claim Amount	Reporting Period
\$325,245.13	Apr. 1, 2003 - Aug. 31, 2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade OAG Taxation / Austin

*Opposing Counsel*

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Leeper, David P. El Paso

Issue: Whether sales tax was correctly calculated. Whether Plaintiff qualifies for insolvency relief. Plaintiff seeks injunctive relief, damages, and attorney's fees.

Status: Answer filed.

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***Roadway Express, Inc. v. Rylander, et al.***

Cause Number: GN002831 AG Case #: 001357631

Filed: 9/25/2000

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$713,686.05	04/01/88 - 05/31/92
\$206,053.87	04/01/88 - 05/31/92

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E. Jones Day / Dallas

Lochridge, Robert

Issue: Whether various equipment used by the Plaintiff with its trucks is exempt from use tax as tangible personal property sold to a common carrier for use outside the state. Alternatively, whether the equipment had been taxed as vehicle components under the interstate motor carrier tax and could not be taxed as “accessories.” Alternatively, whether taxing 100% of the value of the equipment violates the Commerce Clause because of a lack of substantial nexus and of fair apportionment. Whether all tax was paid on Plaintiff’s repair and remodeling contracts and capital assets. Plaintiff also seeks declaratory relief and attorneys’ fees.

Status: Trial setting passed. Discovery in progress.

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***Roark Amusement & Vending, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004726 AG Case #: 072431166

Filed: 12/22/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,027,105.00	10/01/00 - 02/29/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens & Associates / Austin
Seay, Michael B.	

Issue: Whether toys purchased for crane machines are tax exempt as sale for resale. Whether the service provided by crane machines is tax exempt as part of a taxable service. Whether the unsuccessful operation of a crane machine can include possession of a toy by the operator and constitute a legal rental. Whether operation of a crane machine results in the care, custody and control of the machine being transferred to the operator. Whether Plaintiff owes tax on rental payments of equipment located out-of-state. Plaintiff claims the Comptroller has erroneously applied statutes and rules, unconstitutionality of Comptroller Rule 3.301 and Tex. Tax Code §151.151, double taxation, violation of equal protection, due process, equal and uniform taxation, and seeks declaratory relief.

Status: Case consolidated into Cause #D-1-GN-06-004725 on 12/02/09.

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***Roark Amusement & Vending, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004725 AG Case #: 072431158

Filed: 12/22/2006

#03-10-00105-CV

Sales Tax; Protest

Claim Amount      Reporting Period  
\$443,221.70      10/01/00 - 02/29/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.      OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.      Martens & Associates / Austin  
Seay, Michael B.

Issue: Whether toys purchased for crane machines are tax exempt as sale for resale. Whether the service provided by crane machines is tax exempt as part of a taxable service. Whether the unsuccessful operation of a crane machine can include possession of a toy by the operator and constitute a legal rental. Whether operation of a crane machine results in the care, custody and control of the machine being transferred to the operator. Whether Plaintiff owes tax on rental payments of equipment located out-of-state. Plaintiff claims the Comptroller has erroneously applied statutes and rules, unconstitutionality of Comptroller Rule 3.301 and Tex. Tax Code §151.151, double taxation, violation of equal protection, due process, equal and uniform taxation, and seeks declaratory relief.

Status: Case consolidated with D-1-GN-06-004726 and set for MSJ hearing on 12/02/09. Motion to Retain filed 06/01/09. MSJ hearing reset by agreement for 02/17/09. Order granting Defendant's MSJ and denying Plaintiff's Motion for Partial Summary Judgment signed and entered on 02/22/10. Notice of Appeal filed 02/23/10. Clerk's Record filed 03/25/10. Appellant's Motion for Extension of Time to File Brief filed 04/28/10; granted 05/03/10. Appellant's brief filed 06/02/10. Appellee's brief filed 07/02/10. Appellant's reply brief filed 08/18/10. Case set for submission on oral argument on 10/20/10. Joint Motion to Postpone Oral Argument filed 08/19/10. Submission cancelled 08/23/10.

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***Salim Abbas Merchant v. Combs, et al.***

Cause Number: D-1-GN-09-000511    AG Case #: 093107688

Filed: 2/17/2009

Sales and use Tax; Protest

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.      OAG Taxation / Austin

*Opposing Counsel*

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Canfield, George W.      San Antonio

Issue: Plaintiff seeks review under the APA of a sales tax deficiency. Plaintiff claims that the

Comptroller used unreliable data and incorrect mark-up percentages.

Status: Discovery in progress.

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***Shanks Surveyors, L.L.P. v. Compt., et al.***

Cause Number: 2008-42440

AG Case #: 082519802

Filed: 7/16/2008

Sales and use Tax; Injunction

Claim Amount      Reporting Period

\$36,869.68      Jan. 1, 2004 - Sep. 30, 2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Milledge, Samuel L.

Houston

Issue: Whether Plaintiff is liable for use tax on purchases where vendor records were not produced. Whether Plaintiff may get injunctive relief.

Status: Following Comptroller freeze of bank Plaintiff's bank account, the Plaintiff filed for a TRO which was granted. Plaintiff filed for a temporary injunction, a permanent injunction and pleaded on the merits. Plea to the Jurisdiction to be filed 7/23/2008, together with Comptroller's response to the requested injunctions. Hearing on the injunctive relief on 7/24/2008 in Harris County found in favor of Comptroller. No order signed. Enforcement in progress.

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***Southern Union Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004637      AG Case #: 062430574

Filed: 12/15/2006

Sales Tax; Refund

Claim Amount      Reporting Period

\$747,733.01      07/01/93 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Hagenswold, R. Eric

Issue: Whether Plaintiff's purchases of gas pipes, valves and meters are exempt from sales and use tax as tangible personal property under the sale for resale exemption.

Status: Answer filed.

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***Southern Union Gas v. Combs, et al.***

Cause Number: D-1-GN-09-001536 AG Case #: 093127603

Filed: 5/14/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$2,910,000.00	07/01/1997 through 06/30/2001

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Hagenswold, R. Eric	

Issue: Whether property used in gas processing and distribution is exempt under the manufacturing exemption. Whether the property is exempt as property used to comply with public health laws. Whether services performed on that property were exempt under §151.3111. Whether pipes, valves, and meters installed on customers' premises are exempt as sales for resale.

Status: Answer filed.

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***Southwest Royalties, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-004284 AG Case #: 103170106

Filed: 12/17/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$960,000.00	Jan. 1, 1997 through April 30, 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Langenberg, Ray

Issue: Plaintiff's refund suit raises approximately 50 sales and use tax issues in relation to its production and refining operations. Claims include waste removal, sale for resale, environmental services, and various manufacturing exemption claims.

Status: Answer filed.

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***Southwestern Bell Telephone, L.P. v. Strayhorn, et al.***

Cause Number: GN402300

AG Case #: 041998360

Filed: 7/22/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$291,516,385.00	06/01/05 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Hagenswold, R. Eric

Osterloh, Curtis J.

Issue: Whether equipment used in telecommunications is exempt from sales tax under the manufacturing and processing exemption. Whether payphones purchased by Plaintiff to perform taxable telecommunications services qualify for the sale for resale exemption. Whether electricity purchased and resold as an integral part of other tangible personal property and used to perform taxable telecommunications services is exempt from sales tax. Whether stand-alone installation labor provided directly to a customer by a vendor or by a third-party installer is taxable.

Status: Court sent Notice of Setting for DWOP on 08/24/07. Plaintiff filed Motion to Retain, Memorandum in Support of Motion to Retain and proposed Order Granting Motion to Retain on 08/15/07. Order Granting Motion to Retain signed 01/08/08. Scheduling order filed. Trial set for 12/06/10.

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***Spacenet Services, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002437

AG Case #: 062380332

Filed: 7/3/2006

Sales Tax; Protest



Claim Amount	Reporting Period
\$650,940.41	09/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether Plaintiff owes no tax because it accepted resale certificates in good faith.  
Whether all penalty and interest should be waived.

Status: Discovery in progress. Trial set for 11/23/10.

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***Spirit Drilling Fluids, GP, LLC v. Combs, et al.***

Cause Number: D-1-GN-09-002542 AG Case #: 093144038

Filed: 8/7/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$378,328.05	08/01/2002 through 09/30/2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene	OAG Taxation / Austin
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*Opposing Counsel*

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Morris, Joe Scott	J. Scott Morris, P.C. / Austin
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Issue: Whether sales of drilling mud are consummated at the well sites, making them not  
subject to local tax at Plaintiff's headquarters in Houston.

Status: Discovery in progress. Trial scheduled for Fall 2010.

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***Sysco Food Services of Austin, Inc. v. Strayhorn, et al.***

Cause Number: GN400465

AG Case #: 041925850

Filed: 2/17/2004

Sales Tax; Protest

Claim Amount	Reporting Period
\$92,357.48	05/01/98 - 04/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Osterloh, Curtis J.

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Inactive.

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***Sysco Food Services of Houston, L.P. (fka Sysco Food Service of Houston, Inc.) v. Rylander, et al.***

Cause Number: GN100633

AG Case #: 011420734

Filed: 3/1/2001

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$196,492.74	01/01/94 - 12/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin  
Blume, James Blume & Studdard / Dallas

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether equipment is exempt for the same reason.

Status: Pending Sysco Food Services of Austin, Inc. v. Strayhorn, et al., Cause #GN400465.

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***Sysco Food Services of Houston, L.P. (fka Sysco Food Services of Houston, Inc.) v. Strayhorn, et al.***

Cause Number: GN302075

AG Case #: 031816119

Filed: 6/13/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$270,401.80	07/01/94 - 06/30/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Blume, James Blume & Studdard / Dallas

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether equipment is exempt for the same reason.

Status: Pending Sysco Food Services of Austin, Inc. v. Strayhorn, et al., Cause #GN400465.

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***Sysco Food Services of San Antonio, LP, et al. v. Combs***

Cause Number: D-1-GN-09001026 AG Case #: 093116531

Filed: 3/31/2009

Sales and use Tax; Refund

Claim Amount Reporting Period

\$239,634.20 01/01/02 through 09/30/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Osterloh, Curtis J. Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Answer filed.

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***Tara Levy, Robert Tycast, Vivian Daywood, John Butler, Rocky & Linda Piazza and Paul DeNucci, et al. v. Combs, et al.***

Cause Number: D-1-GN-10-001182 AG Case #: 103191029

Filed: 4/13/2010

Sales and use Tax; Refund

Claim Amount Reporting Period

\$1,604,367.17 Comp USA

\$11,017,104.44 Best Buy

\$1,999,730.71 Office Max

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar

OAG Taxation / Austin

*Opposing Counsel*

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Perlmutter, Mark L.

Perlmutter & Schuelke, L.L.P. / Austin

Issue: Whether claimant had standing to present the refund claim. Whether the claimant's documentation was sufficient to verify the claimed refund amount. Whether certain transactions are barred by the statute of limitations.

Status: Comptroller's Plea to the Jurisdiction considered 07/20/10.

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***Target Corp. v. Combs, et al.***

Cause Number: D-1-GN-09-004052 AG Case #: 093165934

Filed: 11/30/2009

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$443,218.66      08/01/1999 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether charges for assembly & installation of display items in taxpayer's stores are non-taxable third party installation services.

Status: Answer filed.

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***Target Corporation v. Combs, et al.***

Cause Number: D-1-GN-09-002395 AG Case #: 093141778

Filed: 7/27/2009

Sales and use Tax; Refund

Claim Amount      Reporting Period

\$1,367,689.00      08/01/1999 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether parts for refrigeration and freezing equipment qualify for the manufacturing exemption. Whether services performed on that equipment are exempt. Whether security systems in new stores are non-taxable new construction. Whether display racks and shelving were assembled and installed by non-taxable third party installation services.

Status: Answer filed.

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***Target Corporation v. Strayhorn, et al.***

Cause Number: GN502440

AG Case #: 052184538

Filed: 7/14/2005

Sales Tax; Refund

Claim Amount      Reporting Period

\$591,242.98      02/01/96 - 07/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether charges for labor under separated contracts and charges under lump sum contracts constitute non-taxable new construction. Whether charges for assembly and installation of display items in retail stores are non-taxable third party installation services. Whether components purchased outside the state and used outside the state to construct other items, including assembly labor charges, are taxable. Whether installation charges for purchases of tangible personal property are non-taxable as separable charges.

Status: Agreed Judgment entered 05/19/10.

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***Texas and Kansas City Cable Partners LP v. Combs, et al.***

Cause Number: D-1-GN-09-001257

AG Case #: 093127587

Filed: 4/17/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$18,434,607.00	01/01/2003 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	

Issue: Whether Plaintiff's equipment is exempt as property used in manufacturing. Whether equipment used to insert commercials and other programming into television signals is exempt as equipment used in the production of motion picture, video or audio programming or as the production of broadcasts and television programming. Whether electricity and various services are exempt purchases by Plaintiff. Whether interest and penalty should be waived.

Status: Answer filed.

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***Texas Gulf, Inc. v. Bullock, et al.***

Cause Number: 485,228

AG Case #: 90311185

Filed: 6/5/1990

Sales Tax; Refund

Claim Amount	Reporting Period
\$294,000.00	01/01/85 - 06/30/88

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Lipstet, Ira A.	DuBois Bryant Campbell & Schwartz, L.L.P. / Austin
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Issue: Are pipes exempt as manufacturing equipment or taxable as intra-plant transportation.

Status: Inactive.

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***Texas Waste Systems, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-001865 AG Case #: 103201638

Filed: 6/7/2010

Sales and use Tax; Declaratory Judgment, APA

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar                      OAG Taxation / Austin

*Opposing Counsel*

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Tubbs, Laura Denise                      Austin

Issue: Plaintiff alleges that the Comptroller failed to provide proper notice of an audit determination and that Plaintiff's request for a redetermination hearing was improperly denied. Plaintiff also seeks a declaration under the UDJA as to the amount of tax due. Plaintiff further alleges that the protest payment requirements of Tax Code §112.051 are violative of both the Texas and U.S. Constitutions.

Status: Answer filed.

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***Time Warner Entertainment & Advance Newhouse v. Combs, et al.***

Cause Number: D-1-GN-09-001982    AG Case #: 093136828                      Filed: 6/19/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$5,413,530.44	01/01/2000 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether Plaintiff qualifies for the exemption on manufacturing and processing in sections 151.318 and 151.317. Whether services were exempt under §151.3111. Whether Plaintiff resold electricity as part of a taxable service. Whether some equipment is exempt under §151.3185 and various service issues. Plaintiff also seeks penalty and interest waiver.

Status: Answer filed.

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***Time Warner Telecom of Texas, L.P. v. Combs, et al.***

Cause Number: D-1-GN-09-001223    AG Case #: 093121176                      Filed: 4/15/2009

Sales and use Tax; Refund

Claim Amount      Reporting Period  
\$3,625,383.95      08/01/00 through 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff qualifies for the exemption on manufacturing and processing in sections 151.318 and 151.317. Whether services were exempt under §151.3111. Whether Plaintiff resold electricity as part of a taxable service.

Status: Answer filed.

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***Time Warner Telecom of Texas, L.P. v. Combs, et al.***

Cause Number: D-1-GN-09-003588    AG Case #: 093158319

Filed: 10/16/2009

Sales and use Tax; Refund

Claim Amount      Reporting Period  
\$1,777,836.99      (plus statutory interest) 02/31/04 thru 10/31/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether Plaintiff qualifies for the manufacturing exemption under §151.318 (c) (2). Whether services were exempt under §151.3111.

Status: Answer filed.

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***T-Mobile West Corp. v. Combs, et al.***

Cause Number: D-1-GN-09-000270    AG Case #: 093104230

Filed: 1/27/2009

Sales and use Tax; Protest & Refund



Claim Amount      Reporting Period  
\$3,964,604.84      06/01/1999 through 12/31/2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff's purchases of electricity were exempt as electricity used in manufacturing. Whether purchases of tangible personal property were exempt as property used in manufacturing. Whether services performed on that property were exempt under Tex. Tax Code § 151.3111. Whether penalty should be waived.

Status: Answer filed.

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***Tyler Holding Company, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004608    AG Case #: 062430350

Filed: 12/13/2006

Sales Tax; Refund

Claim Amount      Reporting Period  
\$47,129.21      10/01/96 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether purchases of tangible personal property by Plaintiff's predecessor were exempt from sales and use tax under the manufacturing exemption. Whether charges of contractors for erecting, dismantling and moving scaffolding are exempt from sales and use tax as a non-taxable service, or taxable as rental of tangible personal property.

Status: Answer filed.

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***U.S. Foodservice, Inc., et al. v. Combs, et al.***

Cause Number: D-1-GN-09-003215    AG Case #: 093153260

Filed: 9/18/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$48,908.29	07/01/1998 through 07/31/2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough Wright Woodward & Weisbart, L.L.P. / Austin
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Issue: Whether electricity used to lower temperature of food products is exempt as electricity used in processing.

Status: Answer filed.

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***U.S. Foodservices, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-000060 AG Case #: 103174488

Filed: 1/7/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$200,000.00	(Plus penalty and interest)06/01/01 thru 09/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Petition also asserts manufacturing exemption claims for replacement parts, wrapping & packaging materials and certain work clothes.

Status: Answer filed.

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***United Scaffolding, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002270 AG Case #: 062375514

Filed: 6/21/2006

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$897,633.51	10/01/97 - 04/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Ohlenforst, Cynthia M.	Hughes & Luce / Dallas
Villa, Richard D.	Hughes & Luce / Austin

Issue: Whether scaffolding services provided by Plaintiff are taxable rentals of tangible personal property in regard to certain lump sum contracts, or exempt as non-taxable services. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***United Space Alliance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN401174

AG Case #: 041954488

Filed: 4/14/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$975,000.00	07/01/99 - 07/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Answer filed.

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***United Space Alliance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN501793

AG Case #: 052151891

Filed: 5/17/2005

Sales Tax; Protest

Claim Amount	Reporting Period
\$881,264.71	03/01/00 - 06/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Answer filed.

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***United Space Alliance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN504467

AG Case #: 062267356

Filed: 12/16/2005

Sales Tax; Protest

Claim Amount	Reporting Period
\$297,739.30	04/01/03 - 08/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether security services provided to Plaintiff in connection with services to the federal government qualify for the sale for resale exemption. Whether tax on tangible personal property should be refunded pursuant to the Raytheon case. Whether electricity used to produce software qualifies for the manufacturing and processing exemption. Whether certain software maintenance is a non-taxable service.

Status: Answer filed.

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***United Space Alliance, LLC v. Combs, et al.***

Cause Number: D-1-GN-09-004310 AG Case #: 103169785

Filed: 12/18/2009

Sales and use Tax; Protest

Claim Amount      Reporting Period

\$22,353.86      August, October and November 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.      Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether electricity consumed by the Plaintiff is eligible for the sale for resale exemption.

Status: Answer filed.

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***V.H. Salas & Associates, Inc. v. Comptroller***

Cause Number: GN403975

AG Case #: 042071365

Filed: 12/6/2004

Sales Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$66,543.64      08/01/98 - 04/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.      OAG Taxation / Austin

*Opposing Counsel*

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Lopez, Diego A.      The Law Offices of Diego A. Lopez / San Antonio

Issue: Whether Plaintiff owes sales tax on purchased equipment used in the manufacturing of wood and metal products. Whether Plaintiff owes sales tax on electricity used to operate the equipment. Whether Plaintiff was denied due process of law and the right to equal protection of the law. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Inactive.

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***Verizon Business Network Services, Inc. v. Compt. Et. Al.***

Cause Number: D-1-GN-07-004221 AG Case #: 072484389

Filed: 12/7/2007

Sales Tax; Refund

Claim Amount Reporting Period

\$20,179,336.77 01/01/96 - 03/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether programming services were taxable. If the services are taxable, whether their sale or use occurred in Texas.

Status: Bifurcated trial held 01/19/10. Case submitted to court after trial on 01/20/10. Post-submission briefs submitted on 02/03/10. Court ruled for Defendants on creation of TPP and first use in Texas, and against Defendants on delivery of other TPP (non-custom software). Trial set for 10/04/2010.

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***Watson Sysco Food Services, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002879 AG Case #: 062397849

Filed: 8/10/2006

Sales Tax; Protest

Claim Amount Reporting Period

\$63,720.38 04/01/01 - 07/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Hagenswold, R. Eric Scott, Douglass & McConnico, L.L.P. / Austin  
Osterloh, Curtis J.

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Discovery in progress.

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***White Swan, Inc. v. Strayhorn, et al.***

Cause Number: GN304767

AG Case #: 041904608

Filed: 12/18/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$415,185.61	10/01/93 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether the purchase of electricity used to lower the temperature of food products is exempt under Tax Code Sections 151.317 and 151.318. Whether the process causes a physical change to the products. Whether the decision of the Comptroller violated the statute and long-standing Comptroller policy.

Status: Discovery in progress.

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***White Swan, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002987 AG Case #: 062398086

Filed: 8/17/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$219,297.54	01/01/98 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Cunningham, Judy M.	Attorney at Law / Austin
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Issue: Whether the purchase of electricity used to lower the temperature of food products is exempt under Tax Code Sections 151.317 and 151.318. Whether the process causes a physical change to the products. Whether the purchases of packing supplies and repairs to and replacement parts of processing are exempt from sales tax. Whether the decision of the Comptroller violated the rules of statutory construction and long-standing Comptroller policy. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress.

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***Wyndham International Operating Partnership, LP v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004260 AG Case #: 062425574

Filed: 11/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$31,283.31	01/01/99 - 09/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed. Court sent Notice of DWOP on 04/03/09. Plaintiff's Amended Motion to Retain filed and granted 08/19/09.

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***Zale Delaware, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-000069 AG Case #: 103172771

Filed: 1/8/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$754,000.00	08/01/01 through 07/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether the Comptroller used the proper calculation method for interest applied to tax overpayments. Whether the Plaintiff is entitled to exemption for inventory items temporarily stored in-state. Petition also includes various other sales and use tax issues.

Status: Discovery in progress.

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***Zale Delaware, Inc. v. Rylander, et al.***

Cause Number: GN202030

AG Case #: 021640669

Filed: 6/24/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$333,602.57	08/01/92 - 02/28/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W. Langenberg, Ray	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Plaintiff is liable for tax on items temporarily stored in Texas. Whether tax on services purchased by Plaintiff should be reduced to reflect the out-of-state benefit of those services. Whether Plaintiff should get a refund or credit for tax paid on inventory. Whether the Comptroller should be barred from off-setting debts in the period between the filing of Plaintiff's bankruptcy petition and the confirmation of its reorganization plan.

Status: Case consolidated with Zale Delaware, Inc. v. Strayhorn, et al., Cause #GN301725, per court order signed 12/12/07. Discovery in progress.

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***Zale Delaware, Inc. v. Strayhorn, et al.***

Cause Number: GN301725

AG Case #: 031806045

Filed: 5/27/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,170,404.64	08/01/92 - 02/28/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W. Langenberg, Ray Sigel, Doug	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Plaintiff is entitled to exemption on items of inventory temporarily stored in-

state. Whether tax was improperly assessed on services performed outside the state. Whether installation services on counters and software were readily separable from taxable tangible property. Whether the Comptroller should be enjoined from taking offsets pursuant to Plaintiff's bankruptcy plea.

Status: Case consolidated into Zale Delaware, Inc. v. Rylander, et al., Cause #GN202030.  
Order to consolidate signed 12/12/07.

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***Zimmer US, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-002096 AG Case #: 093136620

Filed: 6/30/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
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\$947,827.00	09/01/03 through 02/28/07
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Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Plaintiff claims that surgical instrument kits used to install prosthetic devices are "supplies" under §151.313 (a)(5). Alternatively, Plaintiff claims that the kits are either purchased for resale or are donated to an exempt organization.

Status: Hearing on Plaintiff's MSJ set for 12/21/10.

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## Insurance Tax

### ***AXA Equitable Life Insurance Company v. Strayhorn, et al.***

Cause Number: GN501095

AG Case #: 052135712

Filed: 4/7/2005

Gross Premium & Maintenance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$57,166.00	2004
\$28,583.00	2005
\$849.00	2004 (Maintenance Tax)

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade                      OAG Taxation / Austin

*Opposing Counsel*

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Werkenthin, Fred B.              Jackson Walker, L.L.P. / Austin  
Small, Edward C.  
Moore, Steven D.  
Fitzgerald, Pat

Issue: Whether dividends retained and applied to reduce premiums should be included in gross premiums subject to tax under Article 4.11 and Article 4.17. Plaintiff also seeks attorneys' fees.

Status: Stayed by agreement pending final decision in Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al., Cause No. 484,745.

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### ***Fidelity National Title Ins. Co. v. Combs, et al.***

Cause Number: D-1-GN-10-001722    AG Case #: 103198883

Filed: 5/27/2010

Gross Premium Tax; Protest; UDJA

Claim Amount	Reporting Period
\$954,557.00	2009 to 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade                      OAG Taxation / Austin

*Opposing Counsel*

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Burgess, Linda

Winstead P.C. / Austin

Issue: Whether imposition of a premium tax on the entire amount of a title insurance premium is violative of:

- i) the equal protection clauses of the U.S. and Texas Constitutions and
- ii) the equal and uniform taxation provision of the Texas Constitution

Status: Answer filed.

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***Fireman's Fund Insurance Company of Ohio v. Rylander, et al.***

Cause Number: GN101899

AG Case #: 011464476

Filed: 6/20/2001

Insurance Premium Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$439,074.12      1992 - 1998

Counsel Associated With This Case:

*Assistant Attorney General*

Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

Alexander, Richard

Richard W. Alexander / Austin

Issue: Whether Plaintiff, an authorized surplus lines insurer, is liable for unauthorized insurance premiums tax. Whether the Comptroller lacks authority to determine that Plaintiff is an unauthorized insurer, and whether the Texas Department of Insurance is required to make that determination. Whether the Comptroller engaged in selective and improper enforcement. Whether the assessment violates Due Process and the McCarran-Ferguson Act. Alternatively, whether penalty should be waived. Plaintiff also seeks injunctive relief and attorneys' fees.

Status: Revised Scheduling Order filed 02/02/10. Scheduling Order suspended by agreement of the parties.

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***Metropolitan Life Insurance Company, et al. v. Combs, et al.***

Cause Number: 484,745

AG Case #: 90304512

Filed: 5/24/1990

#03-06-00446-CV

#10-0038

Gross Premium Tax; Protest

Claim Amount      Reporting Period

\$10,817,043.00      1989 - 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Werkenthin, Fred B.

Jackson Walker, L.L.P. / Austin

Moore, Steven D.

Harrison, Breck

Rogers, Tom

Issue: Whether insurance taxes are owed by insurance companies on dividends applied to paid-up additions and renewal premiums.

Status: Ninth Amended Petition filed. Settlement discussed, and partial settlement agreed to. Final Judgment entered on paid-up additions issue. Renewal premium issue severed and retained on docket. Plaintiffs made settlement offer on remainder of case. Motion for Summary Judgment hearing held 02/14/06. Judgment granted for Plaintiffs 06/29/06. State filed Notice of Appeal 07/26/06; docketing statement filed 08/01/06. Clerk's Record filed 08/24/06. Appellants' brief filed 09/25/06. Appellees' brief filed 10/25/06. Appellants' reply brief filed 11/14/06. Submitted on Oral Argument 02/14/07. Opinion issued 10/09/09, reversing the trial court's judgment and rendering summary judgment in favor of the Comptroller. Appellee's Motion for Rehearing filed 10/26/09; overruled 12/03/09. Petition for Review filed in the Supreme Court on 01/19/10. Response waived 02/02/10. Response requested by Supreme Court on 04/06/10. Response to petition filed 05/05/10. Petitioner's Reply filed 05/20/10. Briefing on the merits requested 05/27/10. Petitioner's brief filed 06/28/10. Respondent's brief filed 07/28/10. Petitioner's reply brief filed 08/17/10.

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***New York Life Insurance Company v. Strayhorn, et al.***

Cause Number: GN501094

AG Case #: 052130697

Filed: 4/7/2005

Gross Premium & Maintenance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$105,822.00	2004
\$52,911.00	2005
\$1,572.00	2004 (Maintenance Tax)

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Werkenthin, Fred B.                      Jackson Walker, L.L.P. / Austin  
Small, Edward C.  
Moore, Steven D.  
Fitzgerald, Pat

Issue: Whether dividends retained and applied to reduce premiums be included in gross premiums subject to tax under Article 4.11 and Article 4.17. Plaintiff also seeks attorneys' fees.

Status: Stayed by agreement pending final decision in Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al., Cause No. 484,745.

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***Prudential Insurance Company, The v. Strayhorn, et al.***

Cause Number: GN501093                      AG Case #: 052137189                      Filed: 4/7/2005

Gross Premium & Maintenance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$230,578.00	2004
\$115,289.00	2005
\$3,426.00	2004 (Maintenance Tax)

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade                      OAG Taxation / Austin

*Opposing Counsel*

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Werkenthin, Fred B.                      Jackson Walker, L.L.P. / Austin  
Small, Edward C.  
Moore, Steven D.  
Fitzgerald, Pat

Issue: Whether dividends retained and applied to reduce premiums be included in gross premiums subject to tax under Article 4.11 and Article 4.17. Plaintiff also seeks attorneys' fees.

Status: Stayed by agreement pending final decision in Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al., Cause No. 484,745.

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***Warranty Underwriters Insurance Company v. Rylander, et al.***

Cause Number: 99-12271                      AG Case #: 991226739                      Filed: 10/20/1999

Insurance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$416,462.73	1993 - 1997
\$214,893.74	1993 - 1997

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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White, Raymond E.	Akin, Gump, Strauss, Hauer & Feld / Austin
Micciche, Daniel	

Issue: Whether the Comptroller improperly included amounts not received by Plaintiff in Plaintiff's gross premiums tax base. Whether any maintenance tax is payable on Plaintiff's business of home warranty insurance. Whether the Comptroller is bound by the prior actions and determinations of the Texas Department of Insurance. Whether the assessments of tax violate due process and equal taxation. Whether penalty and interest should have been waived.

Status: Trial set for 11/08/10.

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## Other Taxes

### ***35 Bar & Grill, LLC, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002535 AG Case #: 082520511

Filed: 7/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$1,913,112.25	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Deegear III, James O.  
Matthews-Kasson, Michell

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also claims due process violations, and seeks declaratory and injunctive relief.

Status: Answer filed.

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### ***A & D Interests, Inc., dba Heartbreakers v. Compt., et al.***

Cause Number: D-1-GN-08-002410 AG Case #: 082519083

Filed: 7/10/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$67,785.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Pianelli, James V. Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of Texas Entertainment case.

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### ***Badger Tavern L.P. et al. v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003794 AG Case #: 082534447

Filed: 10/20/2008

Other Tax; Protest

Claim Amount Reporting Period

\$21,065.00 Apr. - June 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Bassam Jaber Hantouli v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003547 AG Case #: 082531468

Filed: 9/26/2008

Mixed Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount Reporting Period

\$352,819.92 Jan. 1, 2003 - Aug. 31, 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Gamboa, John L. Gamboa & White / Fort Worth

Issue: Whether the Comptroller correctly estimated Plaintiff's tax on beer sales. Whether penalty and interest should be waived. Plaintiff seeks declaratory and injunctive relief.

Status: Discovery in progress.

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***Benelux Corp., dba The Palazzo & Ziggfeld's Entertainment, Inc., dba Expose v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003385 AG Case #: 082529652

Filed: 9/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$70,620.00	Apr. - June 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Swander, Steven H.	Fort Worth
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Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Benelux Corp., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002489 AG Case #: 082520487

Filed: 7/14/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$91,240.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Swander, Steven H.	Fort Worth
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Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Combs, et al. v. Texas Entertainment Association, Inc. and Karpod, Inc.***

Cause Number: D-1-GN-07-004179 AG Case #: 072480643

Filed: 12/7/2007

#03-08-00213-CV

#09-0481

S.O.B. Fee Tax; Declaratory Judgment & Injunction

Claim Amount	Reporting Period
	2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Whitehead, G. Stewart              Winstead P.C. / Austin

Issue: Whether collection of a fee on sexually oriented businesses where alcohol is consumed violates the First Amendment as an illegal restriction on free speech. Whether the fee is an occupation tax that violates equal protection and fails to allocate revenue to public.

Status: Plaintiffs' application for temporary injunction was denied on 12/18/07. Plaintiffs filed a Motion for Partial Summary Judgment on 12/21/07, and set it for a hearing on 01/22/08. Defendants filed a Conditional Motion for Partial Summary Judgment and Motion for Leave to Supplement the Motion or for Continuance on 12/28/07. The parties agreed to continue the hearing until 02/05/08 at 2 p.m. The parties' responses are due 01/29/08. Hearing on Plaintiff's Motion for Partial Summary Judgment held on 02/05/08. Plaintiff's Motion for Partial Summary Judgment was denied 03/04/08. Court signed judgment for Plaintiffs on 03/28/08. Findings of Fact and Conclusions of Law signed 05/07/08. Additional Findings of Fact and Conclusions of Law signed 06/10/08. Motion to Supersede & Petition for Mandamus proceedings. Appellants' brief filed 08/11/08. Argued by Solicitor General on 02/11/09. Opinion issued 06/05/09, affirming district court's judgment. The Comptroller filed a Petition for Review with the Texas Supreme Court on 06/11/09. Response filed 07/10/09. Briefing on the merits requested 08/26/09. Petitioner's Brief filed 09/25/09. Respondent's Brief filed 10/15/09. Petitioner's Reply Brief filed 10/30/09. Case submitted on oral argument on 03/25/10.

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***D. Houston, Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002483    AG Case #: 082519117

Filed: 7/14/2008

Other Tax; Protest

Claim Amount      Reporting Period

\$482,440.00      Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Monshaugen, Ronald A.              Monshaugen & Van Huff, P.C. / Houston  
Van Huff, Albert T.

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Dickens, Larry & Mary and Kevin & Jennifer Zaputil v. Combs and Connie Perry, Grimes County Tax Assessor and Collector***

Cause Number: 30861

AG Case #: 072457880

Filed: 6/1/2007

Motor Vehicle Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$180.00	2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene

OAG Taxation / Austin

*Opposing Counsel*

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Clevenger, Ty

Attorney at Law / Bryan

Issue: Plaintiffs claim Section 152.023 of the Tax Code violates the Privileges and Immunities Clause of Article IV, Section 2 of the United States Constitution; the Commerce Clause of Article I, Section 8 of the United States Constitution; and the Privileges and Immunities Clause and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Plaintiffs also seek attorneys' fees.

Status: Answer filed. Plaintiff transferred to Travis County.

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***El Paso Entertainment, Inc. dba v. Compt., et al.***

Cause Number: D-1-GN-08-002548 AG Case #: 082520578

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$64,767.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.

Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***El Paso Natural Gas Company v. Sharp***

Cause Number: 91-6309

AG Case #: 9178237

Filed: 5/6/1991

Gas Production Tax; Declaratory Judgment

Claim Amount      Reporting Period

\$3,054,480.60      01/01/87 - 12/31/87

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether Comptroller should have granted Plaintiff a hearing on penalty waiver and related issues.

Status: State's Plea in Abatement granted pending outcome of administrative hearing on audit liability.

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***Enterprise Operating Co., Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002575      AG Case #: 082520545

Filed: 7/21/2008

Other Tax; Protest

Claim Amount      Reporting Period

\$76,780.00      Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Serper, Lauren M.

Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery suspended by Rule 11 Agreement. Pending final disposition of Texas Entertainment case.

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***FW, Inc. and S & S Bros., Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002617 AG Case #: 082526575

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
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\$23,685.00	FW, Inc.
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\$15,881.25	S&S Bros, Inc.
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Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Deegear III, James O.

Matthews-Kasson, Michell

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Golden Productions JCG Fort Worth LLC., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002522 AG Case #: 082519992

Filed: 7/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
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\$11,055.00	Jan. - Apr. 2008
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Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.

Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***I Gotcha, Inc., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002546 AG Case #: 082520503

Filed: 7/17/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$79,195.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Gamboa, John L.	Gamboa & White / Fort Worth
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Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Isis Partners, L.P., et al. vs. Combs, et al.***

Cause Number: D-1-GN-07-002828 AG Case #: 072470107

Filed: 9/4/2007

Mixed Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$20,409.70	09/01/02 through 11/30/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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Issue: Plaintiff claims that the Comptroller did not properly compute liability for mixed beverage gross receipts tax under Tax Code 111.008 and did not send notice of liability in compliance with federal and state due process requirements.

Status: Answer filed.

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***John P. Bellam, dba Showgirl v. Compt., et al.***

Cause Number: D-1-GN-08-002491 AG Case #: 082519125

Filed: 7/14/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$8,430.00	Jan. - Apr. 2008



Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.                      Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Karpod, Inc., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002521    AG Case #: 082520479

Filed: 7/14/2008

Other Tax; Protest

Claim Amount      Reporting Period

\$67,580.25      Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.                      Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Manana Entertainment, Inc., dba v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003280    AG Case #: 082530288

Filed: 9/16/2008

Other Tax; Protest

Claim Amount      Reporting Period

\$14,115.00      Apr. - June 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.

Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***MC/VC, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-003092 AG Case #: 082526187

Filed: 8/26/2008

Other Tax; Protest

Claim Amount Reporting Period

\$9,516.55 Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Deegear III, James O.

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Mirage Real Estate, Inc., et al. v. Richard Durbin, et al.***

Cause Number: 92-16485

AG Case #: 92190294

Filed: 12/3/1992

Alcoholic Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount Reporting Period

\$0.00 N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Mattox, Jim

Attorney at Law / Paris

Lasley, Lowell

Mosher, Michael D.

Issue: Whether the TABC and Comptroller were allowed to use inventory depletions analysis

to determine amount of gross receipts tax owed. Plaintiffs seek class certification.

Status: Inactive.

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***Mulligan's North Bar & Grill, LLC vs. Compt., et al.***

Cause Number: D-1-GN-08-001093 AG Case #: 082503913

Filed: 4/2/2008

Mixed Beverage Gross Receipts Tax; Administrative Appeal

Claim Amount	Reporting Period
\$51,847.61	July 2001 - March 31, 2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Davis, Mark T.	El Paso
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Issue: Whether price and volume should be adjusted. Whether inventory should be removed from audit schedules. Whether credit for spills should be allowed. Plaintiff seeks de novo review under the APA.

Status: Answer filed.

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***North By East, Inc., et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002624 AG Case #: 082520495

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$37,710.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Hopkins, Mark D.	Savrick, Schumann, Johnson, McGarr, Kaminski & Shirley / Austin
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Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Price & Company v. Combs, et al.***

Cause Number: D-1-GN-09-002439 AG Case #: 093144020

Filed: 7/30/2009

Cigarette and Tobacco Tax; Protest

Claim Amount	Reporting Period
\$150,687.46	01/01/2003 through 08/31/2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough Wright Woodward & Weisbart, L.L.P. / Austin
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Issue: Whether the Comptroller improperly assessed tax on cigarettes that were taxed and sold in Louisiana.

Status: Answer filed. Disclosures filed.

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***Ranger Fuels & Maintenance, L.L.C. v. Rylander, et al.***

Cause Number: GN204124 AG Case #: 021705900

Filed: 11/14/2002

Fuels Tax; Declaratory Judgment & Injunction

Claim Amount	Reporting Period
\$115,000.00	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Grissom, Donald H.	Grissom & Thompson / Austin
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Issue: Whether fuels tax is actually owed by an unrelated company. Whether the Comptroller abused its discretion and violated Plaintiff's constitutional rights. Plaintiff seeks injunctive and declaratory relief.

Status: Inactive.

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***Ranger Fuels & Maintenance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN504104 AG Case #: 052245941

Filed: 11/15/2005

Fuels Tax; Refund

Claim Amount	Reporting Period
\$208,428.70	05/01/02 - 05/31/02 (Diesel)
	01/01/02 - 04/30/02 (Gasoline)
	03/01/02 - 04/30/02 (Diesel)
	05/01/02 - 05/31/02 (Gasoline)

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Grissom, Donald H.	Grissom & Thompson / Austin
Thompson, III, William W.	

Issue: Whether Plaintiff acquired a business and its assets by filing a sales tax application with the Comptroller. Whether such acquisition was a fraudulent transfer. Whether Plaintiff owes fuel taxes under successor liability.

Status: Discovery in progress.

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***RPM Entertainment, Inc., et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002622 AG Case #: 082520552

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$69,909.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens & Associates / Austin
Seay, Michael B.	

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief.

Status: Answer filed.

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***Savvy, Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002520 AG Case #: 082520016

Filed: 7/16/2008

Other Tax; Protest

Claim Amount Reporting Period

\$159,595.00 Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***SIFA Investment Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004097 AG Case #: 083091199

Filed: 11/12/2008

Tax;

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Canfield, Gregory W. San Antonio

Issue:

Status: Answer filed.

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***SSD Enterprises, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002301 AG Case #: 082518697

Filed: 7/1/2008

Other Tax; Protest

Claim Amount Reporting Period

\$64,485.00 Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin  
*Opposing Counsel*

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Pianelli, James V.                      Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of the Texas Entertainment case.

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***Stuart, Robert T. Jr., Estate of v. Strayhorn, et al.***

Cause Number: GN503318

AG Case #: 052216702

Filed: 9/14/2005

Inheritance Tax; Protest

Claim Amount	Reporting Period
\$1,293,469.96	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Wheat, David                      Thompson & Knight, L.L.P. / Dallas

Hill, Frank                      Thompson & Knight, L.L.P. / Austin

Issue: Whether Plaintiff's partnership interest located out-of-state is intangible personal property taxable in Texas. Plaintiff claims double taxation.

Status: Discovery in progress.

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***Texas Cabaret, Inc., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002490    AG Case #: 082520032

Filed: 7/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$49,795.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.                      Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Texas Richmond Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002438 AG Case #: 082519075

Filed: 7/10/2008

Other Tax; Protest

Claim Amount Reporting Period

\$102,535.00 Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Pianelli, James V.

Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of the Texas Entertainment case.

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***The King Lounge, Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-003793 AG Case #: 082536822

Filed: 10/20/2008

Other Tax; Protest

Claim Amount Reporting Period

\$138,875.00 Apr. - Sept. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Shells, T. Craig

Richardson

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***The Men's Club Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002439 AG Case #: 082519091

Filed: 7/10/2008



Other Tax; Protest

Claim Amount	Reporting Period
\$60,890.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Pianelli, James V.	Houston
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Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of the Texas Entertainment case.

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***TPI Petroleum, Inc. v. Strayhorn, et al.***

Cause Number: GN502629

AG Case #: 052186657

Filed: 7/28/2005

Fuels Tax; Refund

Claim Amount	Reporting Period
\$528,639.00	12/01/97 - 06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Langenberg, Ray

Sigel, Doug

Issue: Whether Plaintiff is entitled to a refund of diesel fuel tax paid on diesel fuel lost by drive-offs, a refund of gasoline tax and diesel fuel tax based on bad debt deductions, and a credit for motor fuel tax paid on sales of reefer fuel.

Status: Order consolidating with Valero Retail Holdings , Inc. & MRP Properties Co. v. Compt., et al., Cause #D-1-GN-08-004672 entered on 09/22/09. Defendant's Motion for Summary Judgment heard and denied on 03/01/10. Trial previously set for 07/19/10 was continued by agreement and has been reset for 10/18/10.

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***Travis Co., Texas, Nelda Wells Spears, et al. v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-002211

AG Case #: 082531500

Filed: 9/16/2008

Motor Vehicle Tax; Refund

Claim Amount	Reporting Period
\$26,105.98	Jan. 1, 2001 through Mar. 31, 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Martin, Gary Duncan	Austin
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Issue: Whether the Comptroller may refuse to credit the county for checks used to pay motor vehicle taxes that were returned for insufficient funds more than four years ago.

Status: Answer filed.

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***Valero Retail Holdings, Inc. & MRP Properties Co., LLC v. Compt., et al.***

Cause Number: D-1-GN-08-004672 AG Case #: 093097376

Filed: 12/24/2008

Motor fuel tax Tax; Refund

Claim Amount	Reporting Period
\$3,224,831.00	08/1/1999 through 07/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Plaintiff is entitled to: a refund of motor fuel tax paid on fuel lost due to drive-offs; a refund of motor fuel tax based on bad debt deductions; and a credit for motor fuel tax paid on reefer fuel and fuel used for other off-road uses.

Status: Order consolidating into TPI Petroleum, Inc. v. Strayhorn, et al., Cause #GN502629 entered on 09/22/09.

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***Vinson Oil Distribution v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003262 AG Case #: 062405956

Filed: 8/31/2006

Fuels Tax; Protest

Claim Amount	Reporting Period
\$40,711.92	(Diesel)
\$1,861.38	(Gasoline)
	12/01-31/01
	12/01-31/02
	12/01-31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough Wright Woodward & Weisbart, L.L.P. / Austin
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Issue: Whether Plaintiff is entitled to a refund of gasoline tax and diesel fuel tax based on bad debt deductions resulting from proprietary card usage. Plaintiff claims violation of due process, equal protection and equal and uniform taxation.

Status: Inactive.

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## Closed Cases

### ***AccuTel of Texas, L.P. v. Rylander, et al.***

Cause Number: GN300091

AG Case #: 031735236

Filed: 1/10/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$45,658.15	06/01/97 - 11/30/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Feiger, Robert E.	Friedman & Feiger, L.L.P. / Dallas
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Issue: Whether Plaintiff should have been assessed interest and penalty.

Status: Agreed Judgment entered 05/10/10.

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### ***Ardsey, Inc. dba Noche Caliente Nightclub v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004768

AG Case #: 072431349

Filed: 12/28/2006

Sales Tax; Declaratory Judgment & Injunction

Claim Amount	Reporting Period
\$343,876.21	03/01/02 - 08/31/05 -Sales Tax
\$39,699.43	03/01/02 - 08/31/05 -Mixed Beverage Gross Receipts

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Martens, James F.	Martens & Associates / Austin
Seay, Michael B.	

Issue: Whether Plaintiff should be assessed sales tax on door receipts collected by bands. Whether excess fees above an agreed dollar amount collected at the door and paid to Plaintiff are royalty rentals and real property rentals and not door receipts, which would be taxable sales. Plaintiff seeks injunction and attorneys' fees.

Status: Case DWOP'd 08/24/09.

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***Boeing North America, Inc. v. Rylander, et al.***

Cause Number: GN203340

AG Case #: 021676804

Filed: 9/13/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$343,487.00	01/01/95 - 12/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H.              Clark, Thomas & Winters / Austin

Issue: Plaintiff claims a sale for resale exemption on items resold to the federal government. Plaintiff also claims a denial of equal protection and an exemption under §151.3111.

Status: Unopposed Motion to Consolidate into Rockwell Collins, Inc. v. Rylander, et al., Cause #GN203339, entered 02/22/08. Agreed Judgment entered 09/22/09.

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***Cellular City Ltd. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004410    AG Case #: 062427919

Filed: 11/21/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$352,932.44	09/01/00 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether telephones purchased by Plaintiff, and subsequently sold to customers who contract for telephone service with a carrier associated with the Plaintiff, are exempt from sales tax under the sale for resale exemption.

Status: Agreed Judgment entered 03/11/10.

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***Chevron USA, Inc. v. Compt., et al.***

Cause Number: D-1-GN-09-000333 AG Case #: 093103190

Filed: 4/27/2007

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$9,354,450.00	01/01/93 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Langenberg, Ray Scott, Douglass &amp; McConnico, L.L.P. / Austin

Issue: Severed from Chevron USA, AG# 072453475. Chevron continues to assert a laundry list of over 90 claims raised in its motion for rehearing in its original claim for a refund on scaffolding.

Status: Plaintiff's Motion to sever from Chevron USA, Inc. v. Combs, et al., Cause #D-1-GN-07-000292, filed 02/02/09. Agreed Judgment entered 04/28/10.

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***Chrysler Financial Services Americas v. Combs, et al.***

Cause Number: D-1-GN-09-002293 AG Case #: 093139905

Filed: 7/17/2009

Franchise Tax; Refund

Claim Amount	Reporting Period
\$899,270.00	01/01/1999 through 12/31/2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: How should proceeds from the sale of accounts receivables, including retail and wholesale, be calculated for franchise tax apportionment purposes. Whether Plaintiff's accounts receivables are capital assets or investments. Plaintiff claims that the Comptroller's use of the net gain method instead of the gross receipts method in calculating Plaintiff's total gross receipts for franchise tax apportionment purposes violates the Texas Tax Code, the

Comptroller's rules, Comptroller policy, and the constitutional requirements of equal protection and equal and uniform taxation.

Status: Agreed Judgment entered 02/25/10.

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***DaimlerChrysler Services North American, L.L.C.***

Cause Number: GN401380

AG Case #: 041965591

Filed: 4/30/2004

Franchise Tax; Refund

Claim Amount	Reporting Period
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\$2,123,382.74	1988 - 1991
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Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Meese, Matthew J.

Issue: How should proceeds from the sale of accounts receivables, including retail and wholesale, be calculated for franchise tax apportionment purposes. Whether Plaintiff's accounts receivables are capital assets or investments. Plaintiff claims that the Comptroller's use of the net gain method instead of the gross receipts method in calculating Plaintiff's total gross receipts for franchise tax apportionment purposes violates the Texas Tax Code, the Comptroller's rules, Comptroller policy, and the constitutional requirements of equal protection and equal and uniform taxation.

Status: Agreed Judgment entered 02/25/10.

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***Day Cruises Maritime, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004734 AG Case #: 072432578

Filed: 12/27/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
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\$243,910.85	12/01/01 - 12/31/03
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Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Beam, Patrick L.

Attorney at Law / Aransas Pass

Issue: Plaintiff filed suit 09/21/06 under protest questioning the assessed tax based on whether Plaintiff's charter of a vessel is leased property subject to sales and use tax, and whether the vessel was used or received within the State. Plaintiff now seeks judgment that the tax in question is unconstitutional and may not be legally demanded or collected by the Comptroller. Plaintiff requests jury trial.

Status: Case DWOP'd on 08/24/09.

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***El Paso Merchant Energy-Petroleum Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003071 AG Case #: 062403696

Filed: 8/23/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,416,604.28	01/01/92 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Hagenswold, R. Eric	

Issue: Whether Plaintiff is entitled to a refund of sales and use tax on services provided by contract labor, certain manufacturing equipment, services performed on manufacturing equipment, materials needed for machinery and equipment used in the manufacturing process, maintenance of real property, new construction, non-taxable services, programming services, manufacturing equipment with a useful life of six months or less, property shipped out-of-state, repair of real or tangible personal property resulting in a casualty loss, hazardous and industrial waste removal services, safety supplies, items and materials used for quality control purposes, pollution control equipment, and other non-taxable items.

Status: Plea to the Jurisdiction filed 07/31/07. Hearing held 12/20/07. Plea to the Jurisdiction denied 01/16/08. Plaintiff's Motion for Summary Judgment and Defendant's Second Plea to the Jurisdiction heard on 05/25/10. Plaintiff's MSJ granted and Defendant's PTJ denied 05/25/10. Final Judgment entered 05/25/10.

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***Entertainment Publications, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002240 AG Case #: 082517616  
#03-08-00474-CV

Filed: 6/26/2008

Sales Tax; Protest

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Baker, Scott                      McGinnis, Lochridge & Kilgore, LLP / Austin  
Galant, Carl

Issue: Whether Plaintiff may be considered a retailer under Tex. Tax Code §151.024, for fund-raising materials that it provided to school groups, PTA's, and similar organizations. Whether Plaintiff is entitled to injunctive and declaratory relief. Whether the sale for resale exemption applies.

Status: Trial court denied Defendant's Plea to the Jurisdiction and granted a temporary injunction. Comptroller appealed 07/25/08. Joint Motion for Extension of Time to File Appellant's brief filed and granted on 10/10/08. Brief filed 11/12/08; oral argument requested. Appellee's brief filed 12/02/08. Appellant's Reply brief filed 12/22/08. Submitted on oral argument on 03/25/09. Opinion issued 06/12/09, affirming the trial court's judgment. Appellant's Motion for Rehearing filed 06/29/09. Response filed 07/16/09. Appellant's Motion for Rehearing overruled 08/27/09. Mandate issued 12/02/09.

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***Eustace ISD v. Compt., et al.***

Cause Number: D-1-GN-08-001573    AG Case #: 082520941

Filed: 7/18/2008

Property Tax; Administrative Appeal

Claim Amount      Reporting Period  
2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade                      OAG Taxation / Austin

*Opposing Counsel*

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Swinney, Kirk                      McCreary, Veselka, Bragg & Allen, P.C. / Austin  
Tepper, Matthew

Issue: Whether the Comptroller overvalued property by using non-market transactions.

Status: Case non-suited on 07/13/10.

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***Geoscapes of Texas, Inc. v. State of Texas, et al.***

Cause Number: D-1-GN-08-004185 AG Case #: 083091967

Filed: 11/18/2008

Sales and use Tax; Protest

Claim Amount Reporting Period

\$364,905.81 07/01/02 through 02/28/06

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom

Hance Scarborough Wright Woodward &  
Weisbart, L.L.P. / Austin

Issue: Plaintiff seeks a declaration that materials used in landscaping services qualified for the sale for resale exemption. Plaintiff also claims detrimental reliance and that it did not qualify as a contractor. Plaintiff also seeks injunctive relief.

Status: Agreed Judgment entered 06/26/09.

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***GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al.***

Cause Number: GN501921

AG Case #: 052163441

Filed: 5/27/2005

Sales Tax; Protest

Claim Amount Reporting Period

\$130,801.55 10/01/91 - 12/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether Plaintiff used the proper sampling method to determine the amount of credit/reimbursement due on bad debt deductions. Plaintiff seeks waiver of penalty assessed in the audit. Plaintiff also claims violation of due course of law, due process, equal and uniform taxation, equal rights, equal protection, and other provisions of the Texas Tax Code, Rules, Texas and U.S. Constitutions.

Status: Agreed Judgment entered 07/01/10.

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***I-Ball Corp., dba The Gatsby Social Club v. Combs, et al.***

Cause Number: D-1-GN-07-001100 AG Case #: 072449465

Filed: 4/13/2007

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$81,872.57	07/01/00 - 09/30/03

Counsel Associated With This Case:

Assistant Attorney General

Masters, Paul H.	OAG Taxation / Austin
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Opposing Counsel

Monshaugen, Ronald A.	Monshaugen & Van Huff, P.C. / Houston
Van Huff, Albert T.	
Gaunt, Deborah L.	

Issue: Whether the Plaintiff is liable for sales tax on admission/cover fees into its facility for promotional events held by a contracted third party.

Status: Plaintiff's First Amended Petition filed 10/18/07, seeking to recover sales tax paid under protest. Defendants' Amended Original Answer filed 10/23/07. Discovery in progress. Agreed Judgment entered 12/17/09.

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***J.C. Penney Company, Inc. v. Strayhorn, et al.***

Cause Number: GN300883

AG Case #: 031770613

Filed: 3/19/2003

Sales Tax; Refund &amp; Declaratory Judgment

Claim Amount	Reporting Period
\$951,802.17	01/01/91 - 03/31/93

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B.	OAG Taxation / Austin
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Opposing Counsel

Cowling, David E.	Jones Day / Dallas
Lochridge, Robert	

Issue: Whether Plaintiff owes use tax on paper, ink and the printing of catalogs printed out-of-state. Whether local use tax in McAllen, Texas applies to Plaintiff's aircraft. Alternatively, whether the printing service is performed outside Texas. Whether a sales and use tax on the

catalogs violates the Commerce Clause, due process or equal protection. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Agreed Judgment entered 03/22/10.

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***J.C. Penney Company, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002496 AG Case #: 062381678

Filed: 7/7/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$4,007,735.00	04/01/93 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lyda, Kirk	
Schenck, David J.	

Issue: Whether Plaintiff owes sales or use tax on paper, ink and printing labor of catalogs printed out-of-state; on unidentified transactions used in the CAMS sample; on duplicated software licenses distributed to users outside of Texas; on catalogs and promotional materials mailed and distributed into Texas; and wrapping and packaging supplies used to package goods for delivery to customers. Plaintiff claims violation of the Commerce Clause and the Due Process Clause, and equal and uniform protection. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Agreed Judgment entered 03/22/10.

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***Joseph Dobransky v. Combs, et al.***

Cause Number: 296-04789-2009 AG Case #: 103175402

Filed: 12/2/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$13,192.57	(Assessment)2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar	OAG Taxation / Austin
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*Opposing Counsel*

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Wilson, Sr., J. R.

Plano

Issue: Whether a purchaser of an aircraft, for which delivery is accepted out-of-state, is liable for the use tax on that aircraft.

Status: Agreed Judgment entered 05/12/10.

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***Kroger Company, The v. Combs, et al.***

Cause Number: D-1-GN-07-000175 AG Case #: 072435787

Filed: 1/22/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$3,049,056.93	01/01/94 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Hagenswold, R. Eric	

Issue: Whether paper and plastic bags, refrigeration units, refrigerant, freezers and other various supplies and equipment purchased by Plaintiff are exempt from sales tax under the manufacturing exemption. Whether Plaintiff is entitled to a refund of tax on industrial solid waste removal services. Whether purchases of services to restore and repair real property damaged in natural disasters, services to construct new improvements, and non-enumerated services are exempt from sales and use tax. Whether leased property donated for use by a charitable organization is exempt from sales and use tax.

Status: Agreed Judgment entered 02/11/10.

---

***Kroger Texas, LP v. Combs, et al.***

Cause Number: D-1-GN-09-002428 AG Case #: 093142644

Filed: 7/29/2009

Sales and use Tax; Refund

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom

Hance Scarborough Wright Woodward &  
Weisbart, L.L.P. / Austin

Issue: Plaintiff seeks a bill of review for its earlier suit that was dismissed without notice.  
Same as Kroger, AG #042058032, Cause No. GN403582.

Status: Agreed Judgment entered 02/11/10.

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***Kroger Texas, LP v. Compt., et al.***

Cause Number: D-1-GN-08-004103 AG Case #: 083091355

Filed: 11/12/2008

Sales and use Tax; Refund

Claim Amount Reporting Period

\$298,318.00 Jan. 01, 2001 through June 30, 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Langenberg, Ray

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether wrapping and packaging materials used in Plaintiff's supermarkets qualify for the manufacturing exemption. Whether Plaintiff's refrigeration and freezer units are exempt for manufacturing or health purposes. Whether waste removal services are for removal of industrial solid waste. Whether certain repair services were non-taxable repairs of property damaged in natural disasters.

Status: Agreed Judgment entered 02/11/10.

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***Levy, Tara, et al. v. OfficeMax, Inc. and Best Buy Stores, L.P.***

Cause Number: GN201252

AG Case #: 041926635

Filed: 4/17/2002

#03-06-00391-CV

Sales Tax; Declaratory Judgment

Claim Amount Reporting Period

\$0.00 N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Perlmutter, Mark L.  
Schuelke, C. Brooks

Perlmutter & Schuelke, L.L.P. / Austin

Issue: Plaintiff claims a refund for the class of persons who paid sales tax on rebates. Plaintiff seeks declaratory judgment interpreting Texas Tax Code Sections pertaining to cash discounts and exemption from sales tax.

Status: Class-action suit. Comptroller named defendant. Comptroller's Plea to the Jurisdiction and Plaintiffs' Motion for Declaratory Judgment heard 10/19/04. Plea granted. Court requested briefs to address whether any part of case survives the Amended Order dismissing all claims against the Comptroller. Court signed order of severance and Notice of Appeal filed by Plaintiffs 07/06/06 to include all parties. Clerk's Record filed 08/07/06. Appellants' brief due 10/30/06. Appellees' brief due 11/29/06. Appellant filed amended docketing statement 10/20/06 excluding Comptroller from appeal. Oral argument held 03/07/07. Affirmed in part, reversed in part. Plaintiffs have filed a refund claim. Court of Appeals decision issued. Comptroller dismissed from the case.

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***Lone Star Steel Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000500 AG Case #: 062286174

Filed: 2/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$350,000.00	12/01/97 - 11/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Gilliland, David H.	Clark, Thomas & Winters / Austin
Smith, L. G. (Skip)	

Issue: Whether Plaintiff's horizontal rollers used to alter steel strips qualify for the manufacturing exemption. Whether the horizontal rollers are consumed and become an ingredient or component part of the steel strip during the production process and exempt under the sale for resale exemption. Whether the Comptroller used the proper calculation method for interest applied to tax overpayments.

Status: Agreed Judgment entered 08/16/10.

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***Macy's TX I, LP, Successor in Interest to the May Department Stores Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003122 AG Case #: 062403712

Filed: 8/24/2006

Sales Tax; Refund



Claim Amount	Reporting Period
\$275,000.00	04/01/96 - 03/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether Plaintiff is entitled to a refund of tax on industrial solid waste removal services, purchases of wrapping and packaging supplies, installation labor, purchases for sale for resale, and temporary storage of tangible personal property.

Status: Agreed Judgment entered 03/23/10.

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***Marco A. Mascorro v. Compt., et al.***

Cause Number: CL-09-0255-B	AG Case #: 093103745	Filed: 1/30/2009
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Sales Tax; Declaratory Judgment & Injunction

Claim Amount	Reporting Period
\$88,708.86	08/01/2004 through 12/31/2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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McKinnis, Kelly	McAllen
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Issue: Plaintiff seeks declaratory and injunctive relief regarding the suspension of his sales tax permit. Plaintiff claims he should have received a redetermination hearing on an audit liability for export transactions.

Status: Original Answer, Plea to the Jurisdiction, and Motion to Transfer of Defendant signed 02/12/09. DWOP hearing scheduled for 05/28/10. Notice of Nonsuit filed 05/27/10.

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***Nextel of Texas, Inc. v. Strayhorn, et al.***

Cause Number: GN501852	AG Case #: 052154796	Filed: 5/23/2005
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Telecommunications Infrastructure Fund (TIF) Tax; Protest &

## Declaratory Judgment

Claim Amount	Reporting Period
\$1,764,025.45	01/01/99 - 12/31/03

### Counsel Associated With This Case:

*Assistant Attorney General*

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Aterno, Tony	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether receipts for equipment sold to customers and listed separately on invoices are subject to an additional TIF assessment as taxable telecommunications receipts. Whether TIF charges which Plaintiff passed on and collected from its customers are allowable reimbursements as TIF assessment. Plaintiff also seeks attorneys' fees.

Status: Final Judgment entered on 09/10/09.

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## ***Olarnpunsagoon, Suchon v. Combs, et al.***

Cause Number: D-1-GN-07-000134 AG Case #: 072436124

Filed: 1/18/2007

### Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$57,808.30	10/01/00 - 03/31/04

### Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough Wright Woodward & Weisbart, L.L.P. / Austin
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Issue: Plaintiff claims the estimating method used by the Comptroller's office resulted in a significantly large amount of tax due to the State. Plaintiff claims if actual records were used for the audit little, if any, tax would be owed. Plaintiff also claims the methodology used did not allow credits.

Status: Agreed Judgment entered 11/12/09.

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***Reynolds Metals Co. vs. Combs, et al.***

Cause Number: D-1-GN07003574 AG Case #: 072477284

Filed: 10/18/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$486,159.70	Feb. 1, 1990 through Feb. 28, 1994

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Hagenswold, R. Eric	

Issue: Whether ship unloaders qualify as rolling stock and exempt from sales tax. Whether replacement parts and services for the unloaders are exempt. Whether denying the exemption violates equal protection.

Status: Case non-suited on 04/14/10.

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***San Antonio Spurs, L.L.C. v. Strayhorn, et al.***

Cause Number: GN403429 AG Case #: 042050401

Filed: 10/15/2004

Sales Tax; Protest

Claim Amount	Reporting Period
\$913,435.03	06/01/97 - 06/30/00

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Osterloh, Curtis J.	

Issue: Whether suite rental fees are exempt from sales tax as non-taxable rentals or licenses for the use of real property.

Status: Motion to Retain filed 08/20/07; granted 01/08/08. Plaintiff filed Notice of Nonsuit on 01/15/10.

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***Southwestern Bell Yellow Pages, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004500 AG Case #: 062428495

Filed: 12/1/2006

#03-07-00638-CV

#09-0372

Sales Tax; Refund

Claim Amount	Reporting Period
\$6,917,047.67	10/01/03 - 12/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether Plaintiff owes use tax on printing charges for directories printed out-of-state but ultimately distributed within Texas. Plaintiff claims the directories were "manufactured" rather than "purchased" outside of Texas, resulting in the printing operations occurring outside of Texas and used and consumed outside of Texas.

Status: Defendant's Motion for Summary Judgment and Notice of Hearing filed 09/10/07. Plaintiff's reply filed 09/20/07. Motion for Summary Judgment hearing held 10/02/07. Defendant's Judgment granted 10/17/07. Plaintiff's Notice of Appeal filed 11/13/07. Clerk's record filed 12/13/07. Appellant's brief filed 01/11/08; Oral Argument requested. Appellee filed Motion for Extension of Time to File Brief 02/05/08; granted 02/06/08. Appellee's brief filed 02/25/08; Oral Argument requested. Appellant's Reply filed 03/17/08. Appellee's Motion to Postpone Oral argument filed and granted 05/20/08. Oral argument held 10/22/08. Opinion issued on 01/30/09, affirming the judgment. Appellant's Motion for Extension of Time to File Motion for Rehearing filed and granted 02/09/09. Motion for Rehearing filed 03/09/09; overruled 03/27/09. Petitioner's Motion for Extension of Time to File Petition for Review filed 05/05/09; granted 05/07/09. Petition filed 06/09/09. Conditional Waiver of Response filed 07/13/09. Supreme Court of Texas requested response on 08/13/09. Respondent's Response to Petition for Review filed 09/25/09. Petition for Review denied 11/20/09. Mandate issued 01/13/10.

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***TDI-Halter, Inc. v. Rylander, et al.***

Cause Number: GN100339

AG Case #: 011409653

Filed: 2/1/2001

Sales Tax; Refund

Claim Amount	Reporting Period
\$475,000.00	01/01/93 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Hagenswold, R. Eric	

Issue: Whether conversion of drilling rigs to self-propelled, deep water rigs is manufacturing under the statute and Comptroller rules. Whether dredging is non-taxable maintenance of real property. Alternatively, whether interest should be waived.

Status: DWOP notice sent by court 03/29/05. Order retaining case entered 08/04/05. Agreed Judgment entered 12/07/09.

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***Verizon North, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001295 AG Case #: 062309349  
#03-08-00151-CV  
#09-0538

Filed: 4/13/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,116,225.00	06/01/96 - 02/29/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether purchases of software licenses qualify as tangible personal property. Whether some portion of the software license not stored, used or consumed in or during the manufacturing, processing, or fabrication of tangible personal property for ultimate sale is exempt from sales tax.

Status: Trial court rendered judgment for the state on 12/13/07. Plaintiff filed Notice of Appeal 03/06/08. Appellant's brief filed 05/27/08. Appellee's Motion for Extension of Time to File Brief filed 06/12/08; granted 06/13/08. Supplemental Clerks' record filed 06/23/08. Appellees' brief filed 08/11/08. Appellant's Reply Brief filed 09/09/08. Submitted on oral argument on 02/11/09. Opinion issued 05/22/09, affirming the district court's judgment. Petition for Review filed in the Supreme Court on 07/02/09. Response filed 09/28/09. Petition for Review denied 11/20/09. Mandate issued 01/11/10, affirming the district court's judgment.

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***Wireless Now, L.P. v. Combs, et al.***

Cause Number: D-1-GN-07001038 AG Case #: 072447469

Filed: 4/6/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$29,431.70	09/01/01 - 08/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether telephones purchased by Plaintiff, and subsequently sold to customers who contract for telephone service with a carrier associated with the Plaintiff, are exempt from sales tax under the sale for resale exemption. Index: Sale for Resale; Sub-Index: telecommunications equipment.

Status: Agreed Judgment entered 03/11/10.

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***York International Corporation v. Strayhorn, et al.***

Cause Number: GN600153

AG Case #: 062275193

Filed: 1/13/2006

Franchise Tax; Refund

Claim Amount	Reporting Period
\$362,337.18	1993 - 1996

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to record the assets and liabilities of previously acquired entities at their historical book values for purposes of determining taxable capital under Tax Code Section 171.109(b). Whether the Comptroller incorrectly calculated Plaintiff's push-down adjustments under Tax Code Section 171.109(m). Whether the Comptroller used the proper accounting method to value transferred assets. Whether Plaintiff's claim is barred as a second refund.

Status: Agreed Judgment entered 12/14/09.

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